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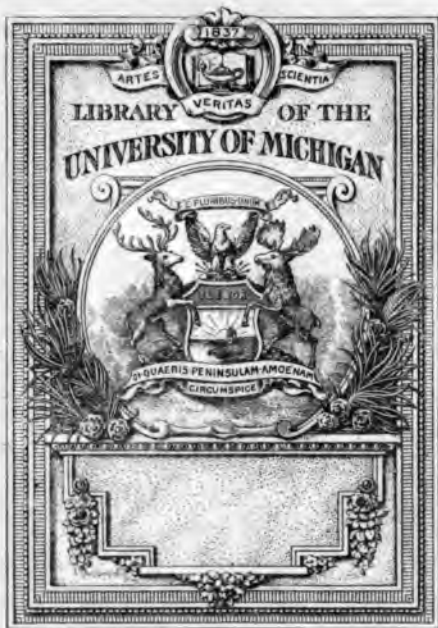
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ROGER LUDLOW  
THE COLONIAL LAWMAKER

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BY

JOHN M. TAYLOR

AUTHOR OF "MAXIMILIAN AND CARLOTTA"



G. P. PUTNAM'S SONS  
NEW YORK AND LONDON  
The Knickerbocker Press

1900

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**The Knickerbocker Press, New York**

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“Short would be the fame of any after death, if their history did not endure by being written in the book of the clerk.”—**MASTER WACE**—*Chronicle of the Norman Conquest.*



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## **DECLARATIONS OF THE FOREFATHERS**



### DECLARATIONS.

Now next after this heavenly peace with God and our consciences, we are carefully to provide for peace with all men, what in us lieth, especially with our associates, and for that watchfulness which must be had that we neither at all in ourselves do give, no, nor easily take offence being given by others. — From ROBINSON'S *Letter to the Pilgrims*.

Fifthly and lastly, and which was not the least, a great hope and inward zeal they had of laying some good foundation, or at least to make some way thereunto for the propagating and advancement of the Gospel of the Kingdom of Christ in those remote parts of the world; yea, although they should be but as stepping-stones unto others for the performance of so great a work. — From *New England's Memorial*.

The desire of carrying the Gospel of Christ unto those foreign parts, amongst those people that as yet have had no knowledge nor taste of God, as also to procure unto themselves and others a quiet and comfortable habitation, were, among other things, the inducements unto those undertakers of the then hopeful and now experimentally known good enterprise for plantations in New England, to set afoot and prosecute the same. — From MOURT'S *Relation*.

A removal from a place where the ministers of God are unjustly inhibited from the execution of their functions, to a place where they more freely execute the



same. — From RICHARD MATHER'S *Six Reasons for Removal*.

In the name of God : Amen. We whose names are underwritten . . . having undertaken, for the glory of God and the advancement of the Christian faith, and the honour of our king and country, a voyage to plant the first colony in the northern parts of Virginia, do by these presents solemnly and mutually, in the presence of God and one another, covenant and combine ourselves together into a civil body politic, for our better ordering and preservation, and furtherance of the ends aforesaid ; and by virtue hereof to enact, constitute, and frame such just and equal laws, ordinances, acts, constitutions, and offices, from time to time, as shall be thought most meet and convenient for the general good of the colony, unto which we promise all due submission and obedience. — From *The " Mayflower " Compact*.

Whereas, we all came into these parts of America with one and the same ayme, namely, to advance the Kingdom of our Lord Jesus Christ, and to enjoy the Gospel in purity and peace. — From *Articles of Confederation* (1643).

# ROGER LUDLOW

## THE COLONIAL LAWMAKER.

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### CHAPTER I.

Pilgrim and Puritan—Civil and Ecclesiastical Despotism—Puritanism, its Causes, its Opportunity—King and Commonwealth—The Expatriation—Political and Commercial Factors—Historical Estimate—Retrospect.

PILGRIM and Puritan speak, in these solemn declarations, of the forefathers. They are weighted with their convictions and purposes in their conscientious revolt against the abuse of human authority in religion, and of royal prerogative in the state. They mark the chief events in the historic exodus, from the farewell at Delft Haven to the birth of the colonial league. They ring the challenge of the man-at-arms, and breathe the prayer of the man of God.

“Once more to us a voice is sent,  
Crying from out the wild, ‘Repent!  
Repent! and evermore repent!’”

They tell of the faith of Robinson and Hooker, the piety of Brewster, the diplomacy of Winslow and Winthrop, the valor of Standish and Mason; they define the cardinal motives of the strong and masterful men among the twenty-six thousand people who came over from Old England to New England from 1620 to 1640.

And these motives had their origin in the ecclesiastical and civil despotism of the English Church and Throne, with its rancorous doctrinal hatreds, which found chief expression in the Acts of Supremacy and Uniformity, and its enforcement in the Courts of High Commission and Star Chamber.

Nonconformist, Independent, Separatist, but witness the evolution of the once loyal churchman into the recusant who knew no compromise and halted at no hardships. “Do I mak the bishops? Do I mak the judges? Then God wauns, I mak what likes me, law and Gospel,” said King James. And it was this law and this gospel, construed and expounded by the royal will and pleasure, and

offering alike to priest and layman the bitter chalice of obedience, that in part invited, and at last compelled, the sacrifices of the expatriation.

To intolerance and persecution in matters of belief and worship were added the hateful encroachments upon the civil and political rights of the people exemplified in the royal conceit "that it is presumption and high contempt in a subject, to dispute what a king can do." Proroguing Parliaments without reason, reigning without them, levying duties against remonstrance, raising revenue by forced loans and benevolences, denying the redress of grievances and the right to discuss state questions, were the answers of kingship to the popular declarations that parliamentary privileges were the birthright of the people; that lawmaking and usurpations of authority were proper questions of debate; and that members of Parliament of right should have freedom of speech: kingly pride and domination against the patriotism of Hampden, Pym, Ludlow, Eliot, Coke, and Selden; the bigotry and arrogance of the Stuarts against the resistless uplifting of the English people to a higher moral and intellectual freedom.

“Two doctrines in religion arrayed themselves each against the other. Two parties in the State entered upon a great contention. Two theories of life and conduct stood opposed. All things tended toward a vast disruption; and in the strife of King and Commonwealth, of Puritan and Anglican, that disruption was accomplished.”

Puritanism found its opportunity and service in this great conflict; and at last, from a majority content with a victory over kingcraft secured by law, there came a resolute minority to write a new chapter in the world's history, and armed with the qualities which in all times have marked the pioneers in adventure, discovery, and civilization. It is the typical man of this minority who in Parliament and conventicle, in camp and field, in council-chamber and meeting-house, gave character, inspiration, perpetuity, to the historic movement which has been called the last of our great Heroisms. Curtis thus describes him: “The Puritan was hard, severe, sour, sober, and bigoted; but God sifted three kingdoms to find him wherewith to plant a free republic.”

“God had sifted three kingdoms to find the wheat for  
His planting,  
Then had sifted the wheat, as the living seed of a  
nation.”

—*Courtship of Miles Standish.*

Artist, poet, historian, and philosopher have pictured him in diverse colors and attitudes,—malcontent, fanatic, hero, martyr; but no one in all history has questioned his sincerity or courage. He was a radical from his environment, from intensity of will and performance, and by sure degrees became a leader in the revolution which both in its vigor and its decadence gave to the world those men and women of heroic mould, ordained an aristocracy, not by decree of kings, but by virtue of their own moral strength. And having kept the faith through years of bitterness and sacrifice, they looked for the final salvation of their cause only in a new order of things overseas.

The beginnings of this great task fell to a few winnowed from the Puritan ranks by differences of doctrine, of politics, and modes of worship, and given their unique place in history as Separatists. They believed not in the reformation of errors and abuses in the Church from within, nor in civil and religious freedom under the laws of England as then administered; and they finally sought their remedies in remonstrance, in endurance, in exile, "that especially the seed of Abraham his servant, and the children of Jacob his chosen,

might remember his marvellous works in the beginning and progress of the planting of New England, his wonders, and the judgments of his mouth."

Their independence of creed and polity, involving loss of property, social ostracism, and imprisonment, vitalized by the teaching and example of Robinson, Bradford, Brewster, and others, led to the removal and stay at Amsterdam and Leyden; and from these colonists came the fathers of the republic, the Pilgrims, the settlers at Plymouth in 1620. Is it not well certified in prayer and hymn and league and solemn covenant, that they came hither "to advance the Kingdom of Christ, and propagate and enjoy the gospel in purity and peace"?

But other motives than religious ones were deeply rooted in the composite character of the colonist. Civil freedom was as dear to him as his religious freedom; in fact, it was an integral part of it. Constitutions, codes, bodies of liberties, all witness his aggressive demand for recognition.

"It is no matter what was his political creed, or his religious creed, whether cavalier or roundhead, puritan or churchman, the emigrant was an Englishman; and every

Englishman then and since held the faith that liberty was his of right, and when liberty is put on the ground of right, it implies the assertion that government must be founded on right, and that liberty belongs to other men also ; and that implies government by law. *Nullum jus sine officio, nullum officium sine jure.*"—HOAR : *The Lawyer and the State.*

Any analysis of the causes of the emigration must also take account of another factor coupled with the religious and political ones, — the adventures for profit embodied in the trading charters, exploited by the man of commercial instinct and enterprise, who wrote his name in compact and article with the minister and the captain, and whose history was not spread on the record of court or church. The Pilgrim with his conscience and creed, and the Puritan with his Bible and blunderbuss, are but foremost figures in the ranks of freemen hot-foot for their political rights, adventurers of the trading companies, soldiers of fortune, yeomen, all truly representative of the complex quality of the colonization.

After the Pilgrims came thousands from the mother country, among them men of station and estate,—clergymen, soldiers, merchants, landowners, courtiers, students of the universities and inns of court. Cotton and Hooker,



Stone and Davenport, Endicott, Dudley, and Winthrop, Vane, Gardiner, and Underhill, Eaton, Haynes, and Goodyear, Wolcott and Wyllys, — were they not apostles of a catholic faith in government of the people, by the people, and of a new civilization, free from the domination of the English Church and State ?

These men,—Pilgrim and Puritan,—their antecedents, and their historic mission, are thus estimated :

“ On December 21, 1620, the little band landed on a rock on the western side of the bay, held in the circling arm of Cape Cod, and called the place Plymouth. It was the founding of a nation on that bleak, wintry day ; and posterity has never failed thus far to recognize and commemorate it. They seem to have known it, too, those Pilgrims of Plymouth. They were very humble folk for the most part, poor and untitled, artisans, fishermen, and farmers from the villages of East Anglia. . . . Bradford and his friends had ‘ empire in their brains,’ even if they were not clearly conscious of it. . . . They did not come merely to make money or get a home in a new land. Even the high purpose of securing a place where they could worship God unharmed, and in their own fashion, was not their only object. They came to establish a state which should cover all these things, but which should also be a commonwealth where those who made it ruled it, and not kings or priests or nobles whom accident placed over them. . . . Eight

years after the landing at Plymouth there came another immigration to New England. It was made up of men of the same race as those of Plymouth, and was started by a like impulse ; but there the resemblance ceased. They were not adventurers come to seek an Eldorado ; they did not come to trade, as the Dutch came to New York. They were not Separatists, but members of the Church of England who had sought to reform the abuses of that church, and, failing at home, crossed the sea to preserve what they believed to be the true faith. They were Puritans, men of the country party. Their leaders were of the class that produced Pym and Hampden and Cromwell. . . . Their clergy were of the established church, deprived members often, graduates of Oxford and Cambridge, scholars and preachers stern and strong. . . . The body of the immigrants were yeomen and farmers and workingmen, own brothers to those who filled the ranks of Cromwell's Ironsides and dashed to pieces the cavaliers of Rupert and the hardy Scotchmen of Leslie. . . . It was a vigorous democracy, and full of vitality." — LODGE : *The Colonial Period*.

Amid the solemn cadences of the *Recessional* —that hymn of warning and prophecy— does not the attuned ear catch, across the centuries, the vaporings of kings, the challenges of the commoners, the clash of arms in the onsets at Worcester, Dunbar, Naseby, Edgehill, Marston, and Newbury, whenever in men's minds ran the refrain,—

“Then be stout of heart when the field is set  
And the smoke is hanging low,  
And the pike-heads shine along the line  
To meet the advancing foe”;

the anathemas of Laud; the murderous judgments of Jeffries; the regicides' decree; the prayers of priests; the cries of martyrs; the echoes of the Puritan spirit which underlies the destiny of the English-speaking peoples, whether of kingdom, empire, or republic?

“God of our fathers, known of old,  
Lord of our far-flung battle-line,  
Beneath whose awful Hand we hold  
Dominion over palm and pine :  
Lord God of Hosts, be with us yet,  
Lest we forget ! Lest we forget !”

Yea, of that Puritanism of which Carlyle, in *The Hero a King*, said :

“It stood preaching in its bare pulpit with nothing but the Bible in its hand” ; and again : “It has got weapons and sinew, and it has firearms, war navies ; it has cunning in its fingers, strength in its right arm, it can steer ships, fell forests, remove mountains, it is one of the strongest things under this sun at present.”

## CHAPTER II.

Early Settlements—The Plymouth Tragedy—Emigration of 1630—  
The Crisis—Church and State—Buckingham and Laud—Royal  
Charter—Pioneers and Leaders—Coming of Ludlow.

IN the bitterness and desolation of winter at Plymouth, in the face of sickness and pestilence and death, these "very humble folk," the little company from the *Mayflower*, set up the standard of the new "undertakings." What tragedy has been so simply told as in these lines from Bradford's journal?

"In two or three months' time half of this company died, especially in January and February; being the depth of winter, wanting houses and other comforts; being infected with the scurvy and other diseases which this long voyage and their incommode condition had brought upon them; so as there died sometimes two, sometimes three, on a day, in the aforesaid time, that of one hundred and odd persons scarce fifty remained."

On this spot, consecrated by the purest heroism, Carver and Bradford, Allerton, Winslow,

Standish, and their associates made religious and political covenants and contracts of trade, established laws and ordinances, and chose officers to execute them, imposed taxes, instituted religious services, formed military companies, held the Indians at bay, neutralized conspiracies at home and abroad, banished malcontents and mischief-makers, allotted lands in severalty, and so in due time laid the foundations of a government rooted in the verities wherewithal men are made truly free and equal before the law. Meanwhile other colonists had made homes elsewhere. Fishermen from West England built their huts at Cape Ann; planters settled at various places, notably Gray and Knight at Nantasket, Maverick at Noddle's Island, Jeffrey at Winnisimmett, Walford at Wishawum, and Blackstone at Shawmut. Lyford, the pious renegade, and Oldham, "a chief stickler in the faction among the particulars," who was later expelled from the colony, the authorities having "appointed a gard of musketeers wch he was to pass throu, and every one was ordered to give him a thump . . . with ye but end of his musket," also settled at Nantasket. Morton, "of Clifford's Inn Gent," author of

the screed, *The New English Canaan*, with a band of roysterers, gathered at Wollaston; and at their headquarters, called "Merry Mount," they started "a school of atheisme," set up a maypole, "and did quaff strong waters, and act as if they had anew revived and celebrated the feasts of ye Roman Goddess Flora, or the beastly practices of ye madd Bachanalians." They sold rum and muskets to the Indians, in defiance of orders, until Standish with his escort laid his strong hand upon them and dispersed the gang of revellers, and sent Morton into England.

In ten years from the landing of the Pilgrims, settlements had been made at Salem, Charlestown, Dorchester, Boston, Watertown, Mystic, and Lynn. John Endicott, destined to high honor in colonial annals, and his company, with a grant from the Council for New England to John White, rector of Trinity Church, Dorchester, and his associates, of land from the Atlantic to the Pacific in length, and in width from the river Merrimac to the river Charles, made their homes at Salem in 1629; and these were the most notable of the "Newcomers" until the great emigration of 1630.

Many causes combined to invite and compel the Puritan emigration in this year. The crisis had come ; choice must be made between absolute monarchy at home and liberty abroad. Certain historical facts bring into clear light the exact situation of affairs. The Pilgrim colonization had been watched with intense interest by the Puritans. Governor Bradford had wisely said : " The light here kindled hath shone to many, in some sort to our whole nation." When King Charles came to the throne, he was deemed a sound Protestant, wise enough to avoid his father's mistakes and respect the popular will. But Buckingham was his closest friend, and Laud his religious counsellor. In the face of warning and remonstrance, and despite the opposition of Parliament, these were some of the royal performances : The King elevated to bishoprics Montague and Mainwaring, whom Parliament had sent to prison for seditious utterances ; Eliot and Hampden were imprisoned for their defence of the rights of the people ; within four years he dissolved three Parliaments for refusal to yield to his unlawful demands ; after giving a hypocritical assent to the historic Petition of Right, he deliberately violated

every promise ; arbitrary penalties were imposed ; monopolies were sold ; customs duties were collected without authority of law ; protests were met by fines, and loans demanded from the freeholders in every shire.

Laud supplemented the King's actions, in the madness of ecclesiastical zeal. He severed the relations between the continental reformed churches and the Church of England ; he withdrew freedom of worship from the Protestant refugees, and banished those who would not conform to the ritual ; lectureships were suppressed ; the right to appoint their own ministers in Puritan parishes was denied ; the importation of Genevan Bibles was prohibited ; and ministers were deprived of their livings for refusing to read a declaration in favor of Sunday sports. Thus State and Church were at one in the tyranny which at last ripened into the Great Rebellion.

In the height of this contest the chief emigration to New England began. At Cambridge, in 1629, Winthrop, Saltonstall, Pynchon, Dudley, and others obtained the Royal Charter to "The Government and Company of Massachusetts Bay in New England." And—under the mighty impulse of the actual transfer of



the charter to the new country by the royal consent—in four years thereafter, four thousand Englishmen had come over under this company's auspices; and around the shores of the bay many permanent settlements had been made.

Strong characters were these among the early colonists,—Carver, Brewster, Bradford, Prince, and Standish; Winthrop, "patient in toil, serene amidst alarms"; Dudley, honest, "of approved wisdom and godliness," but arrogant and intolerant in counsel and debate, of whom his latest eulogist says, in the words of Tacitus respecting Agricola: "Scorning to disguise his sentiments, he acted always with a generous warmth at the hazard of making enemies"; Cotton, the silenced rector of St. Botolph's, who, as he said, loved to sweeten his mouth with a piece of Calvin before going to sleep, who would make the magisterial rule exclusive and perpetual, whose crucial test of citizenship was church-membership, and yet, to his admirers, "Than him in flesh scarce dwelt a better one"; Eliot, the enthusiast and scholar, "whose abilities and acceptations in the ministry did excel," with his message of peace to the Indians; Mason, Gardiner, Un-

derhill, and Stoughton, soldiers of distinction ; Hooker, Cotton's friend, the clerical statesman,—

“ Deep was his knowledge, judgment was acute,  
His doctrines solid which none could dispute.

“ Sweet peace he gave to such as were contrite ;  
Their darkness sad he turned to joyous light.

“ Each ear that heard him said, He spake to me,  
So piercing was his holy ministry ” ;

Bellingham, the stern moralist from his own point of view—“ The Quaker at his thunder fled ” ; Vane, the colonial champion at home and abroad ; Roger Williams, who, with all his heresies, almost alone among the men of his day conceived the present idea of the State as limited in its powers, and saw no divine right in the civil authority to crush so-called religious errors ; Haynes, “ of large estate and larger affections,” whom Massachusetts and Connecticut crowned with highest honors ; Winthrop, Jr., scholar and Puritan patriot ; Eaton, the man of affairs and diplomat, colonial Governor at New Haven ; Davenport, the saintly theocrat ; Stone, Hooker's successor as teacher of the church at Hartford :

“ A stone for kingly David’s use so fit,  
As would not fail Goliah’s front to hit ” ;

Norton, Cotton’s successor at Boston, companion of Bradstreet in his mission to England :

“ Of a more heavenly strain his notions were,  
More pure, sublime, scholastical and clear ;  
More like the Apostles Paul and John, I wist,  
Was this our orthodox evangelist ” ;

and Wyllys, Hopkins, Steele, Wolcott, and others, ministers, magistrates, legislators, soldiers, to whom their countrymen entrusted the vital questions of Church and State in the colonial days.

Into this company of masterful men, to deal with the greatest and gravest principles of government, and at some time to measure his own qualities and opinions with theirs in the fierce light of intense theological and political controversies, to battle for the recognition of great constitutional principles, to embody them by precedent, statute, and ordinance in the jurisprudence of a new civilization in his twenty-four years of service to Massachusetts and Connecticut, came, with a notable company in the ship *Mary and John* (“ Mr. Ludlowe’s vessel ”), in May, 1630,

ROGER LUDLOW.

So much of retrospect, of historical truth, and of sentiment, which is the crystallization of history, of the judgment of men and their achievements by their contemporaries, seems germane to the study of a character in itself typical of the Puritan movement and its motives, both religious and political.

### CHAPTER III.

Ludlow's Ancestry and Family—Knights of the Shire—Sir Edmund—Sir Henry—Military and Parliamentary Services—Relationship by Marriage to Governor Endicott and Chief Justice Popham—Student at Oxford and in the Inner Temple—Entries of the Ludlow Family in the Inner Temple Records—Race of Lawyers—John White—The Dorchester Company—Governor and Company of Massachusetts Bay in New England—Ludlow an Assistant—Distinguished Associates—Arrival in May, 1630.

LUDLOW came of an ancient English family, very simply described by its illustrious son, Sir Edmund Ludlow, in speaking of it as

“originally known in Shropshire, and from thence transplanted into the county of Wilts, where his ancestors possessed such an estate as placed them in the first rank of gentlemen, and gave them just pretences to stand candidates to represent the county in Parliament as Knights of the Shire, which honor they seldom failed to attain.”

All these forebears and kinsmen were “those whom their race and bloud, or at least their virtues, do make noble and knowne.” Roger Ludlow was the second son of Thomas Ludlow,

of Maiden Bradley, Wiltshire, Knight, and Jane Pyle, sister of Sir Gabriel Pyle, Knight, and was born in March, 1590. His father was uncle of Sir Henry Ludlow, who sat in the Long Parliament in 1640, a brilliant advocate of the liberties of the people, and taking rank in his service with the great leaders of the Puritan party; and great-uncle of Sir Edmund Ludlow, a graduate of Oxford, a volunteer with the troop of horse from the students of the Inns of Court in the life-guard of the Earl of Essex at the battle of Edgehill, who won the highest military rank as Lieutenant-General, served with great distinction in Parliament, was a member of the court at the trial of King Charles, refused all inducements from Cromwell to serve his imperial ambition, and who, after the Restoration, was outlawed, shorn of his titles and estates, and died in exile in Switzerland, leaving in his memoirs one of the most valuable of all accounts of that notable period in English history, and whom Macaulay calls "the most illustrious survivor of a mighty race of men, the judges of a king, the founders of a republic."

Ludlow's eldest brother, Gabriel, was admitted as a student to the Inner Temple in

1610, became a Barrister in 1620, and won the honor of a Bencher in 1637. His youngest brother, George, emigrated to New England, and thence to Virginia, where he acquired a large estate, became prominent in colonial affairs, and a member of the Parliamentary Council.

Gabriel Ludlow, cousin to Roger, distinguished for his bravery in the defence of Wender Castle, fell at the battle of Newbury; and another cousin, Robert, an officer of the Parliamentary army, died of cruel treatment while a prisoner in the hands of the Royalists, after the siege of York.

Roger Ludlow married Mary Endicott, a sister of Governor John Endicott of Massachusetts, and was related on the mother's side to the family of Chief Justice Popham, long noted as the founder of the first colonies in Maine. In camp and Parliament, at home and abroad, soldiers, lawyers, scholars, statesmen from the Ludlow families were standard-bearers for the Puritans in their long contest with kings and Lord Protector, and often to the sacrifice of life and fortune; and that they were wedded to the profession of the law is clearly shown in the following entries from the records of the

Inner Temple, including the manuscript note  
of Roger Ludlow's own admission there :

MEMBERS ADMITTED TO THE INNER TEMPLE  
1547-1660.

1609 Nov.

Henry Ludlow (Sir), Maiden Bradley, Wilts Sheriff of  
Wilts 1633.  
M.P. 1640. Died 1643.

. . . . .

1609 Nov.

Edmund Ludlowe, Hill Deverell, Wilts  
Second son of Henry Ludlow.  
Seated at Tadley, Hants. Died 1644.

. . . . .

1610 Nov.

Gabriel Ludlow, Butleigh, Somersetshire. B. 1620.  
Called to the Bench, 1637.

. . . . .

Edmund Ludlow, Maiden Bradley, Wilts. Son & heir  
of Sir Henry Ludlow, Kt. Born 1620. M.P. for  
Hindon. One of the King's Judges. Died 1693  
at Vevay.

. . . . .

1637 Nov.

Gabriel Ludlow, Son & heir of Gabriel Ludlowe, a  
Bencher.



## ADMISSIONS 1571-1640.

Ludlow Rogerus.

Rogerus Ludlowe de Warmynstere in Comitatu Wiltes, Generosus, admissus est in Societatem ipsius Comitivæ in consideratione trium librarum, sex solidorum et octo denariorum, (llj vi viii) præmanibus solutorum xxvij die Januarii Anno xp. supradicto (1612).

Plegiarii	{ Thomas Ludlowe }
	{ Edmond Ludlowe, }

Of such lineage and kinship, and living in a time when great deeds were done, Ludlow found his fitting place with the Puritans, who were called by both duty and choice to the field of adventure and preferment in New England. To this service he gave his fortune; and he brought to it a thorough educational equipment and discipline, as he was matriculated at Balliol College, Oxford, in 1610, and became a student in the Inner Temple in 1612. All his years, from collegiate days to his departure for New England at the age of forty, were devoted to academic and legal training, research, and experience; so attaining the mastery of principles, precedents, and forms, and that knowledge of legal procedure which marked him, to his jealous

and critical associates, as the man among them all to adapt, originate, and frame the fundamental colonial laws, constitutional, statutory, political, civil, and criminal, in exact, comprehensive, and finished legal phraseology. To do all this, and serve as magistrate, commissioner, legislator, jurist, became his ultimate task, his supreme honor, in the land of his adoption.

Of the English clergy who were foremost in the Puritan emigration, none was more zealous than the Rev. John White, for forty years rector of Holy Trinity Church, Dorchester. It was he who first organized the association known as the Dorchester Adventurers, which made a sorry failure of the settlement at Cape Ann, "as the colonists were ill chosen, and fell into many disorders." When the design was abandoned, White persuaded Conant, Woodbury, Balch, Palfrey, and others, who had removed to Salem, not to desert the enterprise; and he undertook to send them men and supplies, and to obtain a patent. In March, 1628, he obtained a grant to John Endicott and others, known as the Dorchester Company, from Devon, Dorset, and Somerset, — "a godly and religious people,

many of them persons of note and figure, being dignified with ye title of master, which but few in those days were."

Great care was taken that this company should constitute a well-ordered settlement, with all the elements of an independent community. Endicott made haste, and settled at Salem with his company in September, 1629. Six months later the six original patentees, with twenty new associates, procured from King Charles the famous charter of "The Governor and Company of Massachusetts Bay in New England." In this company Ludlow was chosen an assistant by the stockholders in London, "that his counsel and judgment might aid in preserving order, and founding the social structure upon the surest basis."

Ludlow's associates and friends in the Dorchester and Bay companies were men of achievement and renown, makers of the English as well as the New England commonwealth, members of Parliament, some of them, and judges in the courts; the Earl of Warwick, Lord Say and Sele, Winthrop and Humphrey, Vane, Venn, Owen, Andrews, and Young among the number. The choice

of Ludlow as an assistant by such men marks his ability, his political, professional, and social rank, and the qualities of leadership in the weighty problems that confronted the emigrants in the new world.

In the first ship of the fleet, in the spring of 1630, Ludlow set sail from Plymouth with Mason, trained under Fairfax in the Lowlands, the destroyer of the Pequots, and comrade in arms of Miles Standish; Underhill, friend of Count Nassau; Patrick, of the Prince of Orange Guard; Southcote and Smith; the minister Maverick and his colleague, Wareham; with a goodly company, landing at Nantasket in May, 1630, and, after some mishaps, settling at Dorchester, so giving point to the ecstatic sentiment of Blake in his *Annals*:

“The Lord Jesus Christ was so plainly held out in ye Preaching of ye Gospel to poor lost sinners, and ye absolute necessity of ye New Birth, and God’s spirit in those days was pleased to accompany ye Word with such efficacy upon ye hearts of many, that our Hearts were quite taken off from Old England, and set upon Heaven.”

overthrow of all that had been accomplished for human liberty, and the colonists resolved to defend themselves by force as well as by diplomacy, Ludlow was made superintendent of the fortifications at Castle Island, one of the most important points of resistance to the sea approach of an enemy; and even when political sentiment toward him, in his last public service in Massachusetts, had somewhat changed, he was chosen a member of a military commission of most extraordinary authority, with his compeers, Winthrop, Dudley, Haynes, Endicott, Bellingham, Pynchon, and Bradstreet; thus, by his pre-eminence in these varied relations, giving a new significance to Palfrey's stunted compliment that he was "the principal lay citizen of Dorchester."

With such a record in private and public affairs of the lesser sort, of which little account has been taken by the earlier writers, and which would of themselves have entitled Ludlow to distinction, there remains for recognition his share as a jurist and legislator in the formative period of colonial history in Massachusetts.

The nominal authority, executive, judicial, and legislative, rested in the royal charter;

but the real power, the right to govern, to conquer, to endure, to create a commonwealth all their own, lived only in the colonists themselves. The letter was written in the English law; but the spirit, the interpretation, was made in hymn and prayer and sermon, and in the grave debates of court and council. An assistant in the chartered Company at home, whose legitimate functions were those of a director in the usual affairs of a corporation, was, much to his liking, transformed in the colony to an executive, legislative, and judicial councillor, in both Church and State.

The royal charter to the Governor and Company of Massachusetts Bay simply authorized the patentees to make laws and ordinances not repugnant to English law, to choose officers, to administer oaths of supremacy and allegiance to the freemen, to admit new associates, to transport malcontents, to resist invasion and intrusion by force of arms. Nothing was said of religious liberty; and no condition of citizenship was prescribed, save the will and vote of those already freemen. From these narrow powers, the Governor, Deputy Governor, and assistants, with some notable exceptions, — undoubtedly

pursuant to the original design, when the royal assent to the transfer of the charter to New England was secured,—undertook in their own way to build a state with a church covenant as an integral principle, a commonwealth on an ecclesiastical foundation, with church-membership the test of citizenship, and the tenure of the magisterial office made exclusive and perpetual.

During Ludlow's terms of office in the General Court as Assistant and Deputy Governor, in his regular attendance at the sessions, questions of gravest concern were determined in which he bore a notable part.

These, among others, were the weighty matters to which the men of the Bay Colony devoted themselves in the crucial years from 1630 to 1635: to allot lands and provide homes for settlers, to locate town sites, to build fortifications, to regulate prices of labor and materials, to create and maintain military forces, to appoint civil and military officers, to change the system of official elections, to grant licenses, to build roads and maintain ferries, to set up church-membership as the test of citizenship; to organize churches "according to the Rule of the Gospel," not of the Anglican

Church, notwithstanding the fraternal farewell letter of Winthrop, Dudley, and others, "To the rest of their Brethren in and of the Church of England," and their prayers for the aid and grace of "our dear mother"; to hold fast to the charter and their rights under it as they interpreted them, despite the imperative order to send it over to England and lay it before the Privy Council; above all, to create in fact and in law the Puritan theocracy, not in the sense that political authority and power should be exercised by the ministers alone, since they were often rebuked for overstepping the lines of their calling in political matters, but that theocracy, no less potent in its practical application in the consciences of both priests and laymen, which the General Court undertook to define in a statute affirming its faith in the Bible and prescribing a penalty for denial of its genuineness and authority.

With the performance of his full duty in all these varied questions, public and private, in this great school of education, experience, and discipline, and especially in the vital matter of the return of the patent to England, wherein he was a zealous advocate of the waiting policy, expressed in Winthrop's record "to avoid and



protract," and all in such wise as to win from his zealous and ambitious associates the high honor of Deputy Governor in 1634, — when Dudley was chosen Governor, and Winthrop took Ludlow's place as an Assistant,—it was at one point in his career in Massachusetts that Ludlow came into the strong light of criticism, and made a declaration which has colored his whole history, and which has been exploited to his discredit and disparagement, without recognition of his radical change of views as to the rights of the citizen, — as exemplified in his later service.

Winthrop, in his journal, tells the story very simply, but the situation was dramatic, the controversies bitter. Dudley had broken out in a storm of accusations against the government, and in a fit of bitterness and anger had resigned from the magistracy, and was under discipline for his act. Other momentous questions invited radical differences of opinion ; and finally, at the session of the General Court in May, 1632, the Governor said

“that he had heard that the people intended, at the next general court, to desire that the assistants might be chosen anew every year, and that the governor might be chosen by the whole court, and not by the assistants only.”

“Upon this Mr. Ludlow grew into a passion, and said that then we should have no government, but there would be an interim wherein every man might do what he pleased.” “This was answered and cleared in the judgment of the rest of the assistants ; but he continued stiff in his opinion, and protested he would then return back into England.”

This incident has been exaggerated by some partisan writers to demonstrate that Ludlow was impetuous, irascible, of aristocratic tendencies, and wanting in the grace and dignity of high station when his personal ambition and interests came into conflict with popular demands or the performance of his official duty. Grant this, and yet he was only one of a goodly company at that time who believed,—religiously believed,—with Cotton, that “never did God ordain democracy for the government of the church or people,”—a political tenet which made Massachusetts first an oligarchy, and then an aristocracy to the days of the revolution, and which, in its hateful enforcement against the consciences of men, made democrats of Ludlow, Hooker, Haynes, and others, who left her jurisdiction because of its intolerance, and set up the standard of pure democracy in the valley of the Connecticut.

A clearer light falls on this episode in

Ludlow's career when it is recalled in brief what the Governor and Company of Massachusetts Bay undertook to do in the early years of the "sojourn" under the royal charter, and despite it, especially in the most vital matter of all, the elective franchise,—the right and power of men to govern themselves. It has been noted that Cradock, White, Saltonstall, and others secured from King Charles in 1629, the transfer of the patent and government to the freemen who should become inhabitants of the colony; and the Company, in General Court at Cambridge, voted that the charter should be transferred and the powers under it exercised in New England. Winthrop and his Company, and the immigrants of 1630, came over under this corporate assurance and guarantee. They were to become the interpreters of their own charter rights and privileges. They made haste with their work.

At the first General Court, in October, 1630, one hundred and eighteen persons gave notice of their wish to take the oath and become members of the corporation. Such election would make a corporate majority of resident colonists. The men chosen to office in England took alarm at this issue, questioning the

power and purpose of voters in the majority untrained in self-government and the exigencies of practical politics. But behind any public concern stood the fear of loss of office, with its dignity and honor, on the part of the magistrates themselves.

Forthwith a meeting of the Company was held, and a rule was adopted which delegated to the Assistants alone the choice of Governor and Deputy Governor, and from their own number, in lieu of such election by the whole body of members (voters) ; and it also transferred to the same officers the power of making laws, and of choosing officials to execute them ; thus leaving to the freemen only a voice in the yearly election of the Assistants themselves ; and in this way these men, to make permanent their tenure of office and maintain their magisterial control, defied the unwritten law of public opinion, that resistless force which bides its time and moulds all human destiny, even under its most recent political definition. In the few months which intervened between this action and the session of the first General Court, the attempt of the magistrates to limit the method of election aroused bitter opposition in the minds of some

of the most influential voters. At the Court in May, 1631, the one hundred and eighteen persons who had given notice were chosen members of the Company and took the freemen's oath.

Immediately the freemen, among whom were some of the early planters, jealous of the concentration of power in the magistrates, rescinded the previous vote, and took again into their own hands the election of the Company officers; and, to secure their right of representation, they also ordered the choice "of two of every plantation to confer with the court about raising a public stock," the initiative of the regular election of deputies, the second legislative house, with a voice in all public affairs, save that every freeman had his vote in the election of officers.

And again, these men, who had expatriated themselves for the sake of civil and religious liberty, at that time wrote another page of history without a parallel. They "ordered and agreed, that, for the time to come, no man should be admitted to the freedom of this body politic but such as were members of some of the churches within the limits of the same."

Thus was an aristocracy created, not of birth or culture, of wealth, achievement, or distinction, but one of persons whose sole test of quality was church membership,—a religious commonwealth. On this definition of citizenship, came Cotton, preaching the crusade of ecclesiastical domination in both spiritual and temporal affairs, abetted by the intemperate advocacy of his doctrines by his brethren; setting up a separate clerico-magisterial estate, defined in spirit and purpose in Cotton's postulate: "A magistrate ought not to be turned into the condition of a private man without just cause, and to be publicly convict, no more than the magistrates may not turn a private man out of his freedom without like public trial."

Count all the causes that inspired the breaking away from the Bay Colony, including the superficial ones set down in the public records, which ripened first into the removal to Connecticut, and the most potent one centres in the intolerance, and arrogance and narrowness of the ministerial dignitaries, and the church-membership test of citizenship. Adams, in *The Emancipation of Massachusetts*, defines the precise situation:

“ Though communicants were not necessarily voters, no one could be a voter who was not a communicant : therefore the town meeting was nothing but the church meeting, possibly somewhat attenuated, and called by a different name. By this insidious statute the clergy seized the temporal power, which they held till the charter fell. The minister stood at the head of the congregation, and moulded it to suit his purposes and to do his will. Common men could not have kept this hold upon the inhabitants of New England ; but the clergy were learned, resolute, and able, and their strong but narrow minds burned with fanaticism and love of power.”

## CHAPTER V.

Ludlow's Attitude as an Assistant—Change of Views—His Defeat for the Governorship—Election of Haynes—Winthrop's Explanation—Ludlow's Objection—Overslaughed—Resolutions to Remove to Connecticut—The Removal—Its Real Cause—Ludlow, Hooker, Cotton, Stone—Ministerial Interference—Magisterial Arrogance—Court and Commons.

IN the outset of the struggle between the magistrates and the commons, Ludlow, as one of the Assistants, stood with his associates in magnifying and undertaking to perpetuate the magisterial office; so carrying out his protest, and guarding, as he thought, against encroachments on the functions and honors of the Court. But when the freemen set aside previous corporate votes, demanded a sight of the charter, appointed advisers to the magistrates—deputies—and made imperative their demands for recognition, Ludlow changed both his tactics and opinions, with other leaders, and made himself popular with the voters, as they elected him Deputy Governor in 1634,



with Dudley as Governor, when other advocates of the court party were left out of the magistracy.

After four years of arduous service, with the strong hold Ludlow had secured on public confidence by a successful administration of his high office, he had every reason to believe that in the general election, in May, 1635, he would be advanced to the governorship. But he was defeated by Haynes, a rich land-owner from Essex, who came over with Hooker and Cotton in 1633, who was made an assistant in 1634, and who had gained favor by advocating the lessening of taxes and other popular measures.

Winthrop gives two reasons for the over-slaughting of Ludlow: "1. Because the people would exercise their power. 2. Because Ludlow hotly condemned the action of the delegates for declaring an agreement on candidates before they came to the meeting." They had held a caucus of the later style, and packed it with supporters of Haynes and Bellingham. Ludlow protested that such action made the election void; but the voters ignored the protest, carried out their scheme, set aside the man fairly entitled to preferment, and

conferred the governorship on a newcomer. Thus Massachusetts lost the services of one of her ablest men ; and Connecticut counted him among her pioneers, and is to this day enjoying the work of his hand in her unique constitution, her jurisprudence, her political and religious liberty defined by the rules of justice, equity, and good conscience.

Scarcely had the solemn file of voters, bidden to come in at one door of the meeting-house and go out at another, delivered their ballots down upon the table before the General Court, and the old Governor had formally declared the election of the new officials, and all had gone their ways,—some to boast of their political finesse, some to gossip and wrangle, and some to quaff of sack or beer or strong waters,—when the defeated Deputy Governor resolved to have done with the Governor and Company of Massachusetts Bay, and open a new realm of adventure and achievement wherein he might win the honors he deserved and craved. And this was no new thought to him and to some of his associates.

It had long been evident to Ludlow, Hooker, Stone, and other prominent colonists,

that there was scant room in the Bay settlements or adjacent territories to accommodate the increasing number of immigrants, and there was great discontent among the people for various causes. The matter was often discussed, and finally came to official consideration in the General Court. The ostensible causes of the removal to Connecticut were simply put by its advocates. They argued — for argument's sake — that they had no accommodation for their cattle and could not support their minister or receive more friends; that Connecticut was large and productive, and was in danger of occupation by the Dutch or by other Englishmen. To these propositions Winthrop and others made answer, that all the Bay people were knit in one body, and bound to seek the welfare of the Commonwealth; that both the state and civil polity forbade the removal; that the colony was weak and in danger from the Dutch and Indians and from the hostility of the home government; and, lastly, that Hooker would draw away many with him.

There was a division in the General Court on the question, and a day was appointed for fasting, prayer, and humiliation. Hooker was

asked to preach the sermon, but, on his instant excuse of unfitness for the occasion (for the reason that he had resolved to go to Connecticut), Cotton was called upon, and his exemplification of the text, "The removing of a candlestick is a great matter which is to be avoided," seems to have given brief pause to the agitation.

But neither fasting, humiliation, nor prayer, nor fervid doctrinal appeals, could turn "the strong bent of their spirits to remove hither." The controlling factors in the whole situation, apart from the points of discussion in the General Court, and out of it, lay in the fact that men of masterful purposes, of broad views of human rights, of faith in democratic principles, could not brook the church membership test of suffrage, the exclusiveness and the arrogance of the magisterial and ministerial interference and dictation in public and private affairs. There was no room for the accommodation of views, the building of a free state, in the narrow field of controversy between the party lines of court and commons.

## CHAPTER VI.

The Valley of the Long River—Knowledge of its Resources—Block—Wahginnacut—Oldham—The Leave to Remove—Cambridge—Watertown—Dorchester—Commission to Govern the New Colony—Ludlow Made its Head—The Agreement—Its Text—Trumbull's Definition.

THE valley of the long river was not an unknown country to the men of the new emigration. Accounts of its fertility, its varied resources, its abundance of corn and furs, from Indians, explorers, traders, and scouts, in their journeyings thither by land and water, had been carried to the Bay colonists, and were well known in England. From the Dutch captain's report of his expedition among the Sequins in 1614; from the appeal of the natives driven forth by the "potencie of the Pequents"; from the glowing description of the sachem Wahginnacut, who came first to Ludlow and had dined with Governor Winthrop and the magistrates, and had urged the English to come to his country; from the

stories of Hall and others who had taken the five-days journey ; of Holmes, who had sailed up the river, defied the Dutch, and established a post at Windsor ; of Oldham, the reckless adventurer, with his personal knowledge of the region, who had chosen a site for a settlement at Wethersfield ; and from other sources, there had come to be such an acquaintance with the new land—Connecticut—at the time of the removal of the three towns, as to invite a sharp struggle, diplomatic and otherwise, for first occupation and supremacy there between the men of Massachusetts, of Plymouth, and of the new company of “lords and gentlemen” under the Saltonstall patent, with young Winthrop at its head. Nor were the hardships and dangers of the new colonization lost sight of, not only from the fierce hostility of the Dutch and Indians, but from pestilence, famine and the terrible rigors of winter, and all the hazards that wait on newcomers in the wilderness.

At the General Court, in September, 1634, Massachusetts confirmed the leaves to remove to the three towns, Cambridge, Watertown, and Dorchester ; but hedged her consent about with nominal conditions of sovereignty and

allegiance, not so much from any claim of jurisdiction by reason of the patent, as from the desire of the people about to remove for some frame of government for their protection; and, with some minor preliminary orders and grants, the movement began, and Connecticut was formally designated as the field of the new colonization.

“Provided they continue still vnder this government,” was the stipulation in each license to remove; and in March, 1636, the General Court of Massachusetts instituted a provisional government under a commission to certain persons who “had resolved to transplant themselves and their estates unto the river of Connecticut.” Diverse views are held as to the scope and purpose of this commission; but the learned historian, the late Dr. J. Hammond Trumbull, in his *Note on the Constitutions of Connecticut*,” thus defines it:

“It was in fact an agreement ratified in the presence of the Massachusetts General Court, between the founders of Connecticut and the representatives of the Earl of Warwick’s grantees, who, as the instrument sets forth, had sometime engaged themselves and their estates in the planting of the river of Connecticut, and had already made a beginning at Saybrook.”

This was the text of the commission  
“graunted to severall P<sup>r</sup>sons to governe the  
People att Con<sup>n</sup>ecticott fr the Space of a Yeare  
nowe nexte coming :”

“Whereas, vpon some reason & grounds, there are to remoue from this o<sup>r</sup> Co<sup>m</sup>onwealth & body of the Mattachusetts in America dyv<sup>s</sup> of o<sup>r</sup> loveing ffrriends, neighb<sup>s</sup>, freemen & members of Newe Towne, Dorchest<sup>r</sup>, Waterton, & other places, whoe are resolved to transplant themselues & their estates vnto the Ryver of Co<sup>n</sup>ecticott, there to reside & inhabite, & to that end dyv<sup>s</sup> are there already, & dyv<sup>s</sup> others shortly to goe, wee, in this present Court assembled, on the behalfe of o<sup>r</sup> said memb<sup>s</sup>, & John Winthrop, Jun<sup>r</sup>, Esq<sup>r</sup>, Gouvern<sup>r</sup>, appoynted by certaine noble personages & men of qualitie interested in the said ryv<sup>r</sup>, w<sup>ch</sup> are yet in England, on their behalfe, have had a serious considera<sup>o</sup>n there[on], & thinke it meete that where there are a people to sitt down & cohabite, there will followe, vpon occa<sup>o</sup>n, some cause of difference, as also dyvers misdeamean<sup>s</sup>, w<sup>ch</sup> will require a speedy redresse ; & in regard of the distance of place, this state and gouernm<sup>t</sup> cannot take notice of the same as to apply timely remedy, or to dispence equall iustice to them & their affaires, as may be desired ; & in regard the said noble p<sup>r</sup>sonages and men of qualitie haue something ingaged themselues & their estates in the planting of the said ryver, & by vertue of a pattent, doe require iurisdic<sup>o</sup>n of the said place & people, & neither the mindes of the said p<sup>r</sup>sonages (they being writ vnto) are as yet knowen, nor any manner of gouernm<sup>t</sup> is yet agreed on, & there



being a necessitie, as aforesaid, that some present gouernm<sup>t</sup> may be obserued, therefore thinke meete, & soe order, that Roger Ludlowe, Esq<sup>r</sup>, Will<sup>m</sup> Pinchon, Esq<sup>r</sup>, John Steele, Will<sup>m</sup> Swaine, Henry Smyth, Will<sup>m</sup> Phelps, Will<sup>m</sup> Westwood, & Andrewe Ward, or the great<sup>r</sup> pte of them, shall haue full power & auctoritie to hear & determine in a iudiciall way, by witnesses vpon oathe examine, w<sup>th</sup>[in] the said plantaçon, all those differences w<sup>ch</sup> may arise between partie & partie, as also, vpon misdemean<sup>r</sup>, to inflicte corporall punishm<sup>t</sup> or imprisonm<sup>t</sup>, to ffine & levy the same if occaçon soe require, to make & decree such orders, for the present, that may be for the peaceable and quiett ordering the affaires of the said plantaçon, both in tradeing, planting, building, lotts, millitarie dissipline, defensiu warr (if neede soe require), as shall best conduce to the publike goode of the same, & that the said Roger Ludlowe [*and others*], or the greater p<sup>r</sup>te of them, shall haue power, vnder the great<sup>r</sup> parte of their ha[nds], att a day or dayes by them apoynted, vpon convenient not[ice], to conuent the said inhabitants of the said townes to any convenient place that they shall thinke meete, in a legall & open manner, by way of Court, to proceede in execute[ing] the power & auctoritie aforesaide, & in case of present necessitie, two of them ioyneing togeather, to inflict corporall punishm<sup>t</sup> vpon any offender if they see good & warrantable ground soe to doe ; provided, alwayes, that this comission shall not extende any longer time than one whole yeare from the date thereof, & in the meane time it shalbe lawfull for this Court to recall the said

presents if they see cause, and if soe be there may be a mutuall and settled gouernm<sup>t</sup> condiscended vnto by & with the goode likeing & consent of the saide noble personages, or their agents, the inhabitants, & this comonwealthe ; provided, also, that this may not be any preiudice to the interest of those noble personages in the s<sup>d</sup> ryver & confines thereof within their seuerall lymitts."

How should the new colony be governed? Who should govern it? who should settle the rivalries of the factions striving for possession of the new territory, and hold with strong hand the key of the situation? who should solve the intricate problems to arise, by the light of law and equity, of sound judgment born of experience? who was well versed in precedents and principles in the conduct of state affairs? who knew the underlying purposes of the people of the three towns, and could best adapt them to the great ends held in view from the beginning? Questions these of first importance in the minds of men to whom, in law at least, Church and State were one.

The General Court of Massachusetts answered these questions by placing Roger Ludlow—just denied his promotion to the governorship—at the head of this commission, with its broad discretionary powers. This

preferment demonstrated that his defeat in the election was for political, and not for personal, reasons ; that it was a popular choice from the strong men of the three towns, ratified by the General Court, to leadership in a field wherein all might find a wider range for the liberty they were hungry to exercise,—the democratic right of self-government.

## CHAPTER VII.

Ludlow's Initiative—Occupation—Conflicting Interests—Indians—Dutch—Plymouth Men—Saltonstall's Company—Ludlow's Firmness and Diplomacy—"Ye Controversie"—Underhill's Notice—Brewster's Letter—Vane's Demand—First Comers—First Winter—Sufferings and Losses—Spring of 1636—Organization of Court—Laws and Ordinances—Important Measures—Administration of Justice—Ludlow *de Facto* Governor and Chief Justice—The Massachusetts "Agreement" Fulfilled.

FROM the beginning, in 1630, Ludlow had been identified with the interests of the people of Dorchester; and now this "principal lay citizen," well knowing that possession was nine points of the law (and he alone of the commission from Massachusetts knew what the law was), at once assumed the responsibility of organization, and the occupancy of the domain very dimly defined as "the Ryver of Conecticott" in the agreement.

This was no easy task. It was one of finesse, of diplomacy, and finally one of arms. Who were the parties already represented there, and zealous to maintain their claims or rights?

First, the Indians, — original land-owners and proprietors, — the Sequins and Nawaas of the river valley, hemmed in by the Mohawks on the west, and on the east by the conquerors of the river tribes, the Pequots, who could set a thousand warriors in the field; the Dutch, who had discovered the country, bought lands of the natives, established trade with them, and built the “House of Hope” at Hartford, ten years before any Englishman came to the “Quonehtacut”; the men of Plymouth, who had been treated with scant courtesy at Boston, as to the Connecticut occupation, and then had set up a trading house at Windsor, on lands purchased of the Indians; and lastly, the company sent out by Saltonstall under the Say and Sele patent, which also sought to settle at Windsor, finding the pioneers from Plymouth in possession, and a party from Dorchester breaking ground and arranging for the arrival of the people from that plantation. It was long before “ye controversie ended.”

It is needless to follow in detail the many steps to the end of the fierce and bitter strife for domination and ownership of the coveted lands. It resulted in the supremacy of the Dorchester claimants, by the withdrawal of

the Dutch, the abandonment of their territorial claim by young Winthrop and his party and their settlement at Saybrook, and the ultimate driving out of the Plymouth men, with whom an adjustment was last made.

“The trading house at the mouth of the Farmington, which William Holmes and his Plymouth company had built, despite the blustering of the Dutch, seemed to the practical, godly people of Dorchester set apart for their own uses ; and it became the rallying point of the congregation guided and inspired by John Wareham, and in secular affairs by Ludlow.”

Who won the victory in this contest for the Dorchester man? Who stood unmoved in the storm of promises, persuasions, and threats, and with signal ability and tact and force held fast to the possession of their new homes, for the little band of his people, and saved them from disaster? Sir Richard Saltonstall answered these queries for all time in a letter describing the efforts of his company to seize the lands, when he said of Ludlow, “He was the cheffe man who hindered it.”

The Dutch cared more for trade than colonization ; and their claims of discovery, of purchase, of sovereignty, vanished when Capt.

John Underhill pasted this notice on the doors of their "House of Hope," at Hartford: "I, John Underhill, do seize this house and land for the State of England, by virtue of the commission granted by the Providence Plantation"; and the General Court of Connecticut sequestrated all the property, on its own authority, despite the duplicate sales and title deeds of the braggart captain.

The demands of Saltonstall and his company, represented by Francis Stiles and his men, instructed to impale in ground where Saltonstall appointed them, were set aside by the Dorchester pioneers under Ludlow, on the ground of prior right to this "Lord's waste and for the present altogether void of inhabitants."

The real controversy as to the Dorchester usurpation is set in a clear light in a letter of Jonathan Brewster, the leader of the Plymouth men, who had been two years on the ground, and who had purchased from the Indians the open meadows—the bone of contention—on the right bank of the Connecticut, from opposite Podunk River northward nearly seven miles. Brewster writes, July 6, 1635:

“Ye Massachusetts men are coming almost daily, some by water, some by land, who are not yet determined where to settle; though some have a great mind to ye place we are upon. . . . What they will do I cannot yet resolve you. . . . I shall do what I can to withstand them. . . . I hope they will hear to reason, as we were here first, and bought the land, and have since held a chargeable possession.”

Small parties from the three Bay towns, Dorchester, Newtown, and Watertown, came to Connecticut, to choose locations, and make ready for their families in 1635; the chief immigration taking place in 1636. Ludlow was among the first comers, that he might hurry on the Dorchester occupancy before stronger forces gathered from any source, and before Saltonstall's agent could get further instructions from England. Matthew Grant, the surveyor, says he began to set out men's lots in 1635, and a large one was allotted to Ludlow in this first distribution.

When Sir Henry Vane, John Winthrop, Jr., and Hugh Peters demanded a “pertinent and plain answer from Mr. Ludlowe, Mr. Maverick, Mr. Newberry, and Mr. Stoughton, and the rest engaged in the business of Conn. plantation in the town of Dorchester,” the answer



was written in Ludlow's presence there, who had returned from the new plantation, after opening his campaign for possession, and was then supervising the departure, and in the busy stir of the people to join their friends on the river,—more than all, in the unyielding spirit of the men who had wrung from the government a reluctant leave to remove, and who counted in their ranks the ministers, soldiers, statesmen, artisans, husbandmen, who were to plant the three towns, the nucleus of the State, and stand fast in the storm of war and the sunshine of peace.

At the fall of winter in 1635, the advance parties from Massachusetts were scattered along the river from Windsor to Wethersfield; and the pioneers of the Saltonstall patentees were holding out against the Dutch at the river's mouth. Snow came early to a great depth, food and clothing were lost en route, and the settlers suffered the extremes of hardship and privation. Some went back to their homes by land or water; others withstood all perils and distress, and stayed through the winter. Among those who remained were some of Ludlow's Dorchester company with their families, who encamped in part near the

Plymouth trading house, and in part in the open meadows on the east bank of the river. The whole country was covered with a dense primeval forest, save where the Indians had made clearings along the streams in the meadows, and cultivated them ; and this accounts for the bitter contest for the possession of the open meadow lands. They fared hard ; their supplies were soon gone ; game was scarce, and acorns and ground nuts were counted in their articles of food ; but they held on.

Ludlow returned from Boston early in 1636, and was with the Dorchester people at Windsor, May 6, to open his duties as the head of the Massachusetts commission, defend his little colony from attacks, invent and put into operation the machinery of government, and begin his career of nineteen years of service to his state.

To govern the people was the first duty of the Massachusetts commission. The first court was promptly organized, and held at Hartford, May 1st, 1637, Ludlow presiding, with four lay associates — Steele, Phelps, Westwood, and Warde. These men never questioned their own authority ; and they administered the affairs of the plantations, civil

and criminal, with a strong hand. Eight sessions of the court were held within a year; the trained lawyer at the head framed the orders and decisions, and adapted the forms of procedure suited to the doing of justice, with due order and dignity.

The court dealt with serious matters from the beginning. These were some of the subjects of its orders: prohibition of sales of arms and ammunition to the Indians, appointment of constables and watchmen, formation of a church covenant by consent of other churches, the education of children, inventories and settlement of estates, military trainings, allotting and surveying lands, levying taxes, establishing town boundaries, fixing land damages, changing town names, and solemnly guarding the household against the proclivities and fascinations of the bachelors by an order that "Noe yonge man y<sup>t</sup> is neither married, nor hath any servants & be noe publicke officer, shall keepe howse by himself, without consent of the Towne where he lives first had, under paine of 20 s. p<sup>r</sup> weeke"; and each master of a family who gave them "habitacon or intertainment," without consent of the town was subjected to the same penalty. Certainly a

wide range of questions was this, for the determination of a court in its first year, with discretionary power and without appeal, and with no guide but its learning, love of exact justice, and sound common sense.

## CHAPTER VIII.

A Crisis—"The Pequott Potencie"—Indian Atrocities—Declaration of War—Civilization *vs.* Barbarism—Mason's Expedition—The Fort Fight—Stone's Thanksgiving—Mason's Battle—Ludlow's Foresight—His Letter to Pynchon—The Swamp Fight—Uncas and Miantonomo—Fair Unquowa—Ludlow's Services 1635-1639

SCARCELY had the colonists in the three settlements on the river—Windsor, Hartford, and Wethersfield—made good their claims to ownership and occupancy under Ludlow's leadership, and set up their standards of independence under exigent laws and orders of their own making, when a crisis came that threatened their destruction. Only instant, resolute action saved them. It was taken May 1, 1637.

"It is ordered that there shalbe an offensive warr ag<sup>t</sup> the Pequott, and that there shalbe 90 men levied out of the 3 Plantacons, Hartford, Weathersfield and Windsor (*viz*<sup>t</sup>), out of Hartford 42, Windsor 30, Weathersfield 18 : under the Comande of Captain Jo : Mason."

In this order of the General Court held at Hartford is written the story of a great

tragedy, itself the outcome of lesser tragedies more poignant and terrible to their victims. The Pequots, enraged at the sale of lands on the river by the tribes they had conquered, resolved upon a war of extermination against the settlers. They had already opened their campaign of murder and assassination, arson, captivity, and torture. Ambush and surprise, torch, tomahawk, and scalping knife were the instruments of their hellish vengeance.

This is but a partial record of Indian atrocities before the declaration of war :

*Murder* of Captain Stone, and crew of twelve men, when going up the river to trade.

*Murder* of two men above Saybrook, one, Brookfield, dying by torture.

*Murder* of John Oldham, the founder of Wethersfield, at Block Island.

*Murder* of Mitchell, brother of the Cambridge minister ; burned at the stake.

*Murder* of two soldiers in the Saybrook cornfield ; bodies cut in halves and hung on trees.

*Attack* on Gardiner's fort at Saybrook, in which he and two others were wounded, and two were killed.

*Massacre* at Wethersfield, April 23, 1637,

when one hundred Indians fell on the settlers at work in the fields, and killed one woman, one child, and seven men, and carried two young women into captivity.

More than thirty English lives were sacrificed before the famous order was written.

In the presence of such horrors, who values the sentimental charge that the war was cruel and unrighteous? It was civilization against barbarism. It was a mighty blow struck in self-defence, by a handful of settlers against a horde of demons; sachem and sagamore against soldier and legist, sannup and squaw against husbandman and housewife; war-drum against church-bell; wickiup against meeting-house; war-whoop against psalm; savagery, squalor, devilish rites and incantations, against prayers, and hymns, and exhortations; the native in his paint and feathers against the Englishman of sand with his pike and musket; Sassacus and Sowheag, Tatobam and Sunck-quasson, against Ludlow and Hooker, Stone and Mason; warfare, rapine and desolation against peace and plenty, enlightenment and culture, and all the social forces that bear fruitage under the sunlight of civilization.

Down the river in "a pink a pinnace and a

shallop" went the little company (seventy-seven in all when they went into action), and sailing eastward to Narragansett Bay, they landed, and after a wearisome and perilous march through the Narragansetts' country, with some scared and useless Indian auxiliaries and guides, in the early morning of May 26, 1637, they fell upon the sleeping Pequots in their fort on Pequot Hill, smote them hip and thigh, and wiped out between six and seven hundred warriors—the flower of their race, according to the Indians' own admission. It was courage and endurance that wrought the great deliverance.

Ludlow presided at the court which declared the "offensive warr." It was chiefly due to him that the desperate task was undertaken. He knew the Indians in Massachusetts and Connecticut; he had studied their character, had a personal acquaintance with some of the chiefs, and was alive to the vital necessity of prompt action, of destroying the conspiracy at one bold stroke; and it was done.

Upon Ludlow chiefly fell the duty of defence of the settlers and their families, in the stockade at Windsor and along the river, while the soldiers were away on the Pequot expedition. More than one-half of the fighting men



had gone. Watch and ward night and day, anxiety and alarm, waited on the little companies in their villages until news of the victory brought relief.

Deep are the pathos and devotion in his letter of those days to his friend Pynchon, in a like stress at Agawam, May 17, 1637.

“I have received your letter, wherein you express that you are well fortified, but few hands. I would desire you to be careful and watchful that you be not betrayed by friendship. For my part, my spirit is ready to sink within me, when upon alarms which are daily I think of your condition ; that if the case be never so dangerous, we can neither help you nor you us. But I must confess both you and ourselves do stand merely by the power of our God : therefore he must and ought to have all the praise of it. I can assure you it is our great grief we can not, for our plantations are so gleaned by that small fleet we sent out that those that remain are not able to supply our watches, which are day and night, that our people are scarce able to stand upon their legs ; and for planting, we are in like condition with you ; what we plant is before our doors, little anywhere else. Our fleet went away tomorrow will be seven night.”

Westward, toward the Mohawk country, in the following July, fled the remnant of the Pequots, after the battle at their stronghold ; and they finally stood at bay in a dense thicket

in Fairfield. Ludlow was present at this so-called "Swamp Fight," having joined the forces of Mason and Stoughton and their Indian allies at Saybrook. After a gallant defence, several of the sachems and warriors were killed; about two hundred prisoners were taken and allotted to the Mohegans and Narragansetts, and an end forever put to the "Pequoitt Potencie"; and after the death of the noted Sassacus, a compact of peace was made at Hartford with Uncas and Miantonomo, by the magistrates of Connecticut in behalf of the colonies, under which full mastery was given to the English, until King Philip's war. It was not a "benevolent assimilation."

It was on this march, and in scouting the adjacent country, that Englishmen first saw the beautiful region about Quinnipiac. Fair Unquowa, "beyond Pequannocke," with its hills and streams, rich intervalles and forest lands, captured the imagination of Ludlow. At the earliest moment he made another visit there, sent out some planters from Windsor, and there he stood for his last service to his state, when in his conscientious and hazardous defence of this frontier post against the Dutch and Mohawks he was left alone, and made the

target of criticism and reproof by his associates in office.

Ludlow's services to Connecticut, from the inception of its colonization to the adoption of the Fundamental Orders at Hartford, Jan. 14, 1639,— as shown in a later summary,— were of the highest order, and always equal to the greatest demands upon his experience, tact, courage, foresight, and judicial qualities.

What was his share in that great historic work, his honor on that great history-making day in this commonwealth,— its birthday two hundred and sixty years ago, when the colonists came to declare their independence ?

## CHAPTER IX.

The Fundamental Orders — No Record — None Desired — Opinions of Hoadley and Trumbull — At their Adoption — Leaders — New Chapter in History — Text of the Constitution — Law of the People — Views of Jurists and Historians — Bancroft — Palfrey — Fiske — Green — Tarbox — Bryce — Sanford — Trumbull — Robinson — Johnston — Hamersley — Bushnell — Day — Brinley.

No record exists of the proceedings at the adoption of the constitution of 1639, but the constitution itself. No record of the court, no report of the debates, is known to history. It is the judgment of the most learned scholars, Dr. Charles J. Hoadley and the late Dr. J. Hammond Trumbull, that the men who were foremost in that great matter desired that no record of the transactions should be preserved; that they knew the Fundamental Orders would explain themselves—they needed no interpreter; that in letter and spirit they would find instant response and approval in the minds and hearts of the people; and it was so. It has

been justly called a self-appointed constitution.

But there were other reasons for the silence of the records. England was watchful and suspicious of this vigorous infant colony; and the commission from Massachusetts had expired. The men of the three towns were a law only to themselves. It is known that they were in earnest for the establishment of a government on broad lines; and it is certain that the ministers and captains, the magistrates and men of affairs, forceful in the settlements from the beginning, were the men who took the lead, guided the discussions, and found the root of the whole matter in the first written declaration of independence in these historic orders. Who were they? Surely these men were there: From Windsor, Ludlow, Mason, Hull, Phelps, and Marshall; from Wethersfield, Mitchell, Ward, Raynor, Plum, and Hubbard; from Hartford, Haynes, Hooker, Welles, Webster, Talcott, Steele, and Hopkins. With these leaders in thought and action are grouped other strong personalities: Wareham, Rositer, Wolcott, Seeley, Wyllys, Allyn, Chester, Bull, and Goodwin,—all the chief planters of the towns (not alone the dignitaries of the

General Court, as some authorities hold),—inspired, providentially directed, to one great purpose. They wrote a new chapter in the world's history on that day, January 14, 1639. It was this :

## THE CONSTITUTION OF 1639.

Forasmuch as it hath pleased the Allmighty God by the wise disposition of his diuine providence so to Order and dispose of things that we the Inhabitants and Residents of Windsor, Harteford and Wethersfield are now cohabiting and dwelling in and vppon the River of Conectecotte and the Lands thereunto adioyneing ; And well knowing where a people are gathered together the word of God requires that to mayntayne the peace and vnion of a such people there should be an orderly and decent Gouverment established according to God, to order and dispose of the affayres of the people at all seasons as occation shall require ; doe therefore associate and conioyne our selues to be as one Publike State or Commonwelth ; and doe, for our selues and our Successors and such as shall be adioyned to vs att any tyme hereafter, enter into Combination and Confederaçon together, to mayntayne and presearue the liberty and purity of the gospell of our Lord Jesus which we now professe, as also the disciplyne of the Churches, which according to the truth of the said gospell is now practised amongst vs ; As also in our Ciuell Affaires to be guided and gouerned according to such Laws, Rules, Orders and decrees as shall be made, ordered & decreed, as followeth :

1. It is ordered, sentenced and decreed, that there shall be yerely two generall Assemblies or Courts, the first on the second thursday in Aprill, the other the second thursday in September, following: the first shall be called the Courte of Election, wherein shall be yerely Chosen from tyme to tyme soe many Magestrats and other publike Officers as shall be found requisitte; Whereof one to be chosen Gouvernour for the yeare ensuing and vntill another be chosen, and noe other Magestrate to be chosen for more than one yeare; provided alwayes there be sixe chosen besides the Gouvernour; which being chosen and sworn according to an Oath recorded for that purpose shall haue power to administer justice according to the Lawes here established, and for want thereof according to the rule of the word of God; which choise shall be made by all that are admitted freemen and haue taken the Oath of Fidellity, and doe cohabitte within this Jurisdiction (hauing beene admitted Inhabitants by the major part of the Towne wherein they liue) or the mayor parte of such as shall be then present.

2. It is Ordered, sentensed and decreed, that the Election of the aforesaid Magestrats shall be on this manner: euery person present and quallified for choise shall bring in (to the persons deputed to receaue them) one single paper with the name of him written in yt whom he desires to haue Gouvernour, and he that hath the greatest number of papers shall be Gouvernour for that yeare. And the rest of the Magestrats or publike Officers to be chosen in this manner: The Secretary for the tyme being shall first read the names of all that are to be put to choise and then shall seuerally nominate them

distinctly, and every one that would have the person nominated to be chosen shall bring in one single paper written vpon, and he that would not have him chosen shall bring in a blanke ; and every one that hath more written papers than blanks shall be a Magestrat for that yeare ; which papers shall be receaved and told by one or more that shall be then chosen by the court and sworne to be faythfull therein ; but in case there should not be sixe chosen as aforesaid, besids the Gouvernour, out of those which are nominated, then he or they which have the most written papers shall be a Magestrate or Magestrats for the ensuing yeare, to make vp the aforesaid number.

3. It is Ordered, sentenced and decreed, that the Secretary shall not nominate any person, nor shall any person be chosen newly into the Magestracy which was not propounded in some Generall Courte before, to be nominated the next Election ; and to that end yt shall be lawfull for ech of the Townes aforesaid by their deputies to nominate any two whom they conceave fitt to be putte to Election ; and the Courte may ad so many more as they judge requissitt.

4. It is Ordered, sentenced and decreed that noe person be chosen Gouvernor aboue once in two yeares, and that the Gouvernor be always a member of some approved congregation and formerly of the Magestracy within this Jurisdiction ; and all the Magestrats Freemen of this Commonwelth ; and that no Magestrate or other publike officer shall execute any parte of his or their Office before they are seuerally sworne, which shall be done in the face of the Courte if they be present, and in case of absence by some deputed for that purpose.

5. It is Ordered, sentenced and decreed, that to



the aforesaid Courte of Election the seuerall Townes shall send their deputyes, and when the Elections are ended they may proceed in any publike searvice as at other Courts. Also the other Generall Courte in September shall be for makeing of lawes, and any other publike occation which concerns the good of the Commonwelth.

6. It is Ordered, sentenced and decreed, that the Gouvernor shall, either by himselfe or by the secretary, send out summons to the Constables of euery Towne for the cauleing of these two standing Courts, one month at lest before their seuerall tymes ; And also if the Gouvernor and the gretest parte of the Magestrats see cause vpon any spetiall occation to call a generall Courte, they may giue order to the secretary soe to doe within fowerteene dayes warneing ; and if vrgent necessity so require, vpon a shorter notice, giueing sufficient grownds for yt to the deputyes when they meete, or els be questioned for the same ; And if the Gouvernor and Mayor parte of Magestrats shall ether neglect or refuse to call the two Generall standing Courts or ether of them, as also at other tymes when the occations of the Commonwelth require, the Freemen thereof, or the Mayor parte of them, shall petition to them soe to doe ; if then yt be ether denyed or neglected the said Freemen or the Mayor parte of them shall haue power to giue order to the Constables of the seuerall Townes to doe the same, and so may meete together, and chuse to themselues a Moderator, and may proceed to do any Acte of power, which any other Generall Courte may.

7. It is Ordered, sentenced and decreed that after there are warrants giuen out for any of the said Generall

Courts, the Constable or Constables of each Towne shall forthwith give notice distinctly to the inhabitants of the same, in some Publike Assembly or by going or sending from howse to howse, that at a place and tyme by him or them lymited and sett, they meet and assemble themselves together to elect and chuse certen deputyes to be att the Generall Courte then following to agitate the afayres of the commonwelth; which said Deputyes shall be chosen by all that are admitted Inhabitants in the seuerall Townes and haue taken the oath of fidellity; prouided that non be chosen a Deputy for any Generall Courte which is not a Freeman of this Commonwelth.

The aforesaid deputyes shall be chosen in manner following: euery person that is present and quallified as before expressed, shall bring the names of such, written in seuerall papers, as they desire to haue chosen for that Employment, and these 3 or 4, more or lesse, being the number agreed on to be chosen for that tyme, that haue greatest number of papers written for them shall be deputyes for that Courte; whose names shall be endorsed on the backe side of the warrant and returned into the Courte, with the Constable or Constables hand vnto the same.

8. It is Ordered, sentenced and decreed, that Wynd-sor, Hartford and Wethersfield shall haue power, each Towne, to send fower of their freemen as their deputyes to euery Generall Courte; and whatsoever other Townes shall be hereafter added to this Jurisdiction, they shall send so many deputyes as the Courte shall judge meete, a reasonable proportion to the number of freemen that are in the said Townes being to be attended therein; which deputyes shall haue the power

of the whole Towne to giue their voats and allowance to all such lawes and orders as may be for the publike good, and unto which the said Townes are to be bownd.

9. It is Ordered and decreed, that the deputyes thus chosen shall haue power and liberty to appoynt a tyme and place of meeting together before any Generall Courte to aduise and consult of all such things as may concerne the good of the publike, as also to examine their owne Elections, whether according to the order, and if they or the greatest parte of them find any such election to be illegall they may seclud such for present from their meeting, and returne the same and their resons to the Courte ; and if yt proue true, the Courte may fyne the party or partyes so intruding and the Towne, if they see cause, and giue out a warrant to goe to a newe election in a legall way, either in parte or in whole. Also the said deputyes shall haue power to fyne any that shall be disorderly at their meetings, or for not comming in due tyme or place according to appoyntment ; and they may returne the said fynes into the Courte if yt be refused to be paid, and the Tresurer to take notice of yt, and to estreete or levy the same as he does other fynes.

10. It is Ordered, sentenced and decreed, that euery Generall Courte, except such as through neglect of the Gouvernor and the greatest parte of Magestrats the Freemen themselves doe call, shall consist of the Gouvernor, or some one chosen to moderate the Courte, and 4 other Magestrats at lest, with the mayor parte of the deputyes of the seuerall Townes legally chosen ; and in case the Freemen or mayor parte of them, through neglect or refusall of the Gouvernor and mayor parte of the

magestrats, shall call a Courte, yt shall consist of the mayor parte of Freemen that are present or their deputyes, with a Moderator chosen by them : In which said Generall Courts shall consist the supreme power of the Commonwealth, and they only shall haue power to make lawes or repeale them, to graunt leuyes, to admitt of Freemen, dispose of lands vndisposed of, to seuerall Townes or persons, and also shall haue power to call ether Courte or Magestrate or any other person whatsoever into question for any misdemeamour, and may for just causes displace or deale otherwise according to the nature of the offence ; and also may deale in any other matter that concerns the good of this commonwelth, excepte election of Magestrats, which shall be done by the whole boddy of Freemen.

In which Courte the Gouvernour or Moderator shall haue power to order the Courte to giue liberty of spech, and silence vnreasonable and disorderly speakeings, to put all things to voate, and in case the voate be equall to haue the casting voice. But none of these Courts shall be adiorned or dissolued without the consent of the maior parte of the Courte.

11. It is ordered, sentenced and decreed, that when any Generall Courte vpon the occations of the Commonwealth haue agreed upon any summe or summes of mony to be leuyed vpon the seuerall Townes within this Jurisdiction, that a Committee be chosen to sett out and appoynt what shall be the proportion of euery Towne to pay of the said leuy, provided the Committees be made vp of an equal number out of each Towne.

14th January, 1639, the 11 Orders abouesaid are voted.

Jurists, historians, and scholars accord to these Fundamental Orders a unique place among political constitutions. And justly so, since they are inseparable from any intelligent appreciation of the character and motives of the men who inspired, framed, and adopted them; and they underlie all the American declarations of the rights of man, the organic law of the state and the nation, the law and the gospel of government by the people.

What some of the authorities say :

“From this seed sprang the constitution of Connecticut, first in the series of written American constitutions framed by the people, for the people. . . .

“Nearly two centuries have elapsed; the world has been wiser by various experience; political institutions have become the theme on which the most powerful and cultivated minds have been employed; dynasties of kings have been dethroned, recalled, dethroned again, and so many constitutions have been framed or reformed, stifled or subverted, that memory may despair of a completed catalogue: but the people of Connecticut have found no reason to deviate from the government established by their fathers.”—BANCROFT: *History of the United States*.

“It was the first written constitution known to history, that created a government.”—FISKE: *Beginnings of New England*.

“The whole constitution was that of an independent

state. It continued in force, with very little alteration, a hundred and eighty years."—PALFREY : *History of New England*.

"This constitution defined the laws, rules and regulations of a government created by the people."—TARBOX : *Organization of Civil Government*.

"The eleven fundamental orders, with their preamble, present the first example in history of a written constitution."—GREEN : *Short History of the English People*.

"The oldest truly political constitution in America is the instrument called the Fundamental Orders of Connecticut, framed by the inhabitants of Windsor, Hartford and Wethersfield in 1638,—memorable year, when the ecclesiastical revolt of Scotland saved the liberties of England."—BRYCE : *American Commonwealth*.

"One of the most free and happy constitutions of civil government."—TRUMBULL : *History of Connecticut*.

"The first constitution ever written and adopted by the suffrages of a people."—SANFORD : *History of Connecticut*.

"No king, no congress, presided over its birth; its seed was in the three towns. So far as its provisions are concerned, the King, the Parliament, the Warwick grant, the Say and Sele grant, might as well have been non-existent: Connecticut was as absolutely a state in 1639 as in 1776."—JOHNSTON : *History of Connecticut*.

"In this instrument, quaint in phrase, but strangely comprehensive in thought, reverent to God but aggressive and bold to all human beings of rank and authority,

we have the first written constitution in history, adopted by a free people, which asked consent from no king and recognized no earthly allegiance but to the sovereign commonwealth."—ROBINSON, H. C. : *Connecticut Constitution*.

"This remarkable document has been called, and with a certain import truly called, the first written constitution. It did, however, formulate into solemn declaration one of the two essential principles assumed to be axiomatic by the American idea of government ; *i. e.*, sovereignty, by virtue of the divine will and law, resides in the people, who set the bounds and limitations of the power they entrust to officers and magistrates."—HAMERSLEY : *Connecticut : Origin of her Constitution and Laws*.

"The Connecticut constitution of 1638-9 is the foundation of the republican institutions of the colony and state. It may claim on higher considerations the attention of students of political science and general history."—TRUMBULL, J. H. : *Blue Laws—True and False*.

"The first properly American constitution,—a work in which the framers were permitted to give body and shape, for the first time, to the genuine republican idea, that dwelt as an actuating force or inmost sense in all the New England colonies. . . .

"The first one written out as a complete frame of civil order in the new world embodies all the essential features of the constitutions of our states, and of the Republic itself as they exist at the present day."—BUSHNELL : *Historic Estimate*.

"It was not the intention of the framers of the consti-

tution to abrogate all the existing laws and institutions. They intended only to improve what was defective, to supply what was deficient, and to render certain what was uncertain."—*1st Connecticut Report*, DAY'S Preface.

"But fifteen years before the 'Instrument of Government' was framed in England, and eighteen years before Vane's proposition of a 'fundamental constitution,' on January 14, 1639, the first constitution of Connecticut was adopted by a general assembly of the planters of the three towns of Hartford, Windsor, and Wethersfield. This was in fact the first written constitution, in the modern sense of the term, known to history."—*Old South Leaflet*.

"This remarkable document gave to Connecticut the preëminent place in constitutional history. It established a democracy pure and simple, recognizing neither King, Lords, or Parliament, nor owing dependence upon any power on earth. It was the constitution of an independent state, a distinct organic law constituting a government and defining its powers. It declared in plain terms that the general court shall constitute the supreme power of the commonwealth, and the general court was to be elected annually by the freemen."—BRINLEY'S Prefatory Note, *Reprint Laws of 1673*.

"Historians concede that the first written constitution of representative government ordained by men was agreed on by the inhabitants of the three towns, Windsor, Hartford and Wethersfield—250 years ago. . . . Never had a company of men deliberately met to frame a social compact constituting a new and independent commonwealth with definite officers, executive and



legislative, and prescribed rules and modes of government, until the first planters of Connecticut came together for the great work on January 14, 1638-9. . . . This daring spring into political independence could only have proceeded from men accustomed to some self-created form of public organization . . .”—BALDWIN: *Three Constitutions of Connecticut*.

## CHAPTER X.

Who Inspired the Constitution—Hooker—The Sermon —Wolcott's Notes — Trumbull's Interpretation — Doctrine — Reasons — Historical Estimates — Johnston — Fiske — Elliott—Twichell—Walker—Who Wrote the Constitution—Ludlow—His Qualifications — Opinions — Hollister — Tuttle — Stiles — Bancroft—Schenck—Trumbull—Walker—Elliott — Hawes — Robinson — Brinley — Beers — Waters — Hooker Visioned and Ludlow Wrote the Fundamental Orders.

IN the absence of all record evidence, any estimate of an individual's share or influence in making the constitution of 1639 must be one of conjecture and comparison rather than of demonstration. From a single source, a ray of light shines through the historic lines, and marks one of the sources of their inspiration. It falls on the stalwart figure of a minister of the First Church in Hartford, great in his calling,—Thomas Hooker. He was a Non-conformist, driven out of England by Laud's pursuivants, frozen out of Massachusetts by the oligarchy of magistrates and clerical brethren,

and made a democrat, a hater of tyranny and absolutism, an opportunist in the highest sense, when here in Connecticut a way providentially opened to him to vision the rights of a people who would be truly free; and withal great enough never in book or sermon, by voice or pen, so far as history discloses, to make claim to prophecy or honor above his fellows or friends who dared with him, in the face of kingship and its royal grants, to write the first declaration of independence. It is only in the vociferous laudations of some recent writers that the historic orders are described as "Hooker's constitution."

For two hundred and twenty-two years after the constitution was written, the honors of its authorship were in general given to Haynes, Hooker, and Ludlow.

Then the late Dr. J. Hammond Trumbull deciphered and interpreted some notes of lectures and sermons delivered in Windsor and Hartford from April, 1638, to April, 1641, made by Henry Wolcott, Jr., of Windsor, in a note book now one of the treasures of the Connecticut Historical Society. One of these sermons was preached by Mr. Hooker, May 31, 1638, before the General Court; and under

the heads "Doctrine" and "Reasons," Wolcott sets down in his manuscript, in a quaint alphabet and in arbitrary signs, these propositions from the lips of the preacher :

"Doctrine."—I. That the choice of the public magistrates belongs unto the people by God's own allowance.

II. The privilege of election, which belongs to the people, therefore must not be exercised according to their humors, but according to the blessed will and law of God.

III. They who have the power to appoint officers and magistrates, it is in their power, also, to set the bounds and limitations of the power and place into which they call them.

"Reasons."—I. Because the foundation of authority is laid, firstly, in the free consent of the people.

II. Because, by a free choice, the hearts of the people will be more inclined to the love of the persons (chosen), and more ready to yield (obedience).

III. Because of that duty and engagement of the people.

Upon these broad "doctrines" of liberty, foretoked in an earlier letter to Governor Winthrop, and novel in that exact form to all the world,—save the freemen of the Connecticut plantation,—rests the constitution. So

runs the consensus of opinion between writers of colonial history who, hypercritical, accord too little honor to Hooker, and those who, overzealed, accord too much.

The truth is made plain in the equipoise of these scholarly opinions :

"It is on the banks of the Connecticut, under the mighty preaching of Thomas Hooker, and in the constitution to which he gave life, if not form, that we draw the first breath of that atmosphere which is now so familiar to us."—JOHNSTON : *History of Connecticut*.

"It marked the beginnings of American democracy, of which Thomas Hooker deserves more than any other man to be called the father."—FISKE : *Beginnings of New England*.

"In so few and such words did young Mr. Wolcott of Windsor set down the substance of that great manifesto of liberty, how little deeming that his jottings are the sole record by which more than two centuries later it shall be redeemed from oblivion, and laurel with new and imperishable honor the memory of the divine and statesman who gave it voice."—TWHICHELL : *Winthrop*.

"The outline of principle and idea, the inspiration and spirit of them, were Thomas Hooker's."—WALKER : *First Church in Hartford*.

"The man who first visioned and did much to make possible our American democracy."—ELLIOTT : *History of New England*.

All this is true, historically true ; and still

there remains a question of great interest and importance: Who wrote the Fundamental Orders, who framed this constitution of 1639? What sculptor gave form and expression to the preacher's inspiration? What artist, months after the "great manifesto," set in high lights and colors the spirit, the purpose, the prophecy of the preacher's words? Who embodied them in the stately lines of that great constitutional classic? Who engraved, in its exact legal phraseology, so much more than the sermonic "doctrines" and "reasons," the English Bible, the genius of the English common law, the idea of representative government, and the liberty of the individual? It was the language of the court, and not of the pulpit; of the law, not of the gospel; of the legist, not of the theologian; of a jurist and legislator, not of a minister and ecclesiast.

The seeds of Hooker's sermon fell on fruitful soil. The doctrines were driven home with persuasive pulpit eloquence, and in the eight months that elapsed before the adoption of the constitution, there had come, through discussion and conviction and by contrast with previous conditions, in England and in Massachusetts, into the minds and hearts of the men

of the three towns, Windsor, Hartford, and Wethersfield, an uplifting to the highest level of political thought and purpose, and a readiness, an eagerness, to make a fitting declaration, when in the fulness of time some strong man of their own choice should rise to give it utterance.

Who so likely to meet their wishes and prove equal to the necessities of the situation as he who was chief adviser of their government, the centre of their activities, one whom they trusted in public affairs, their counsellor from the beginning in legal matters? Ludlow was chosen for this distinguished service. Such is the evidence from the most authoritative sources. There were many reasons for the choice, among them these, sufficient, even conclusive, in themselves :

He was a lawyer, — the only one in the colony, — trained and learned in precedents and forms ; he had been a magistrate in Massachusetts four years, serving in various offices from assistant to deputy governor, in the General Court ; he was chief of the Connecticut commission, and governor *de facto* ; he had drawn the main orders and acts of the colonial government to that time ; he was intimate with

Hooker and Haynes and the other leaders; and comparison with his earlier and later papers points to the phraseology and diction of the constitution as his own. In the court of history these are some of the witnesses in his behalf:

"First lawyer who came to Connecticut, and one of the most gifted who ever lived in it."—HOLLISTER: *History of Connecticut*.

"To him belongs the honor of first unfolding that representative system peculiar to our government. He probably drafted the constitution of Connecticut."—TUTTLE: *History of Windsor*.

"This document was drawn up by a member of the Windsor Church, Mr. Roger Ludlow, assented to by the magistrates."—STILES: *History of Ancient Windsor*.

"The document bears intrinsic evidence of a legal skill and phraseology which, when compared with Ludlow's code of 1650, seems to prove that, whosoever's advice he had, no other hand but his drew the first constitution of Connecticut."—SCHENCK: *History of Fairfield*.

"Unsurpassed in his knowledge of law, and the rights of mankind."—BANCROFT: *History of the United States*.

"He rendered most essential services, was a principal in framing its original civil constitution. For jurisprudence he seems to have been second to none who came into New England at that time."—TRUMBULL: *History of Connecticut*.



"Whose hand soever may in detail have phrased and formulated the Fundamental Laws, and Haynes and Ludlow and other men there were who might have done it."—WALKER'S *Thomas Hooker*.

"Constitution of 1639 mainly his work. The phraseology and spirit are his. The representative system of American republics was just unfolded by Ludlow—who probably drafted the constitution of Connecticut—and Hooker, Haynes, Wolcott, Steele, Sherman, and others."—HOLLISTER: *History of Connecticut*.

"Haynes and Ludlow shaped the infant state."—ELLIOTT: *History of New England*.

"This document, recognizing no authority save God's superior to that delegated by the people, was drawn up by a member of the Windsor Church, Mr. Roger Ludlow, assisted by the magistrates."—HAWES: *Centennial Address*.

"Member constitutional convention of 1639. Probably drafted that state document."—*Cyclopædia of American Biography*.

"Father of legislation, drafted Connecticut constitution, author of our representative government."—*Mem. History of Hartford County*.

"The first instance of a written constitution adopted by the suffrages of the people and recognizing no allegiance to the king, prelate, or other earthly power. . . . No lover of democracy, no believer in the right of self-government by a people, can read it without a sense of worship, nor recall its authors but with reverence. . . . Its composition is credited to Roger Ludlow, a lawyer of

scholarship, a democrat to the tips of his fingers, of whom Roger Wolcott said, 'He was a man inferior to none in good sense and skill in the law.'"—ROBINSON, H. C. : *Constitutional History of Connecticut*.

"But the salient feature of Ludlow's career . . . was his large share in originating and putting into practical operation the original laws of Connecticut. When, after the Pequot War, the General Court met to decide upon a frame of government, he was unanimously appointed to make the draft. Of this great paper it is not too much to say briefly, that in its immediate application and far-reaching results, it ranks with the best that have been formulated by the profoundest statesmen."—BEERS : "Roger Ludlow," *Mag. American History*.

"He was the principal framer of the Constitution of 1639."—DAY'S *Notes*.

"On the 14th of January, 1638-9, the planters of Connecticut, assembling at a public meeting, proceeded to adopt a constitution, which was the first written constitution originating in the New World and the model for all succeeding ones. The authorship of it was generally attributed to Roger Ludlow."—BRINLEY'S Prefatory Note, *Laws of 1673*.

"Among the men in this party who afterward became prominent was Roger Ludlow, who drafted the first constitution of Connecticut, which was practically the parent of all written constitutions, state and national."—HAYDEN : *Historical Address*.

Until there shall be found in the hidden records another key to the history of that

colonial epoch, it will run in the minds of men that, while Haynes and Wyllys, Webster, Mason, Goodwin, Steele, and others may have shared in the deliberations of the planters, and have given voice to their convictions, Hooker inspired and Ludlow framed the Fundamental Orders,—men of equal honor in the professions that ruled in the colonial state, the ministry, and the law.

## CHAPTER XI.

The Code of 1650—Ludlow's "Body of Lawes"—Requested to Draft it by General Court—The Criminal Code—Massachusetts Body of Liberties—Differences—Code Four Years in Preparation—What it Was—Its Recognition in Legislation—Its Intrinsic Merits—Witnesses to its Authorship and Value—De Tocqueville—Trumbull—Day—Brinsley—Hamersley—Robinson—Schenck—Stiles.

WHATEVER question may abide as to the honor due to any man in the making of the constitution of 1639—and that Ludlow drafted it seems to be clearly shown—it is abundantly certified of record that he alone of all the eminent men in Connecticut seven years later was called upon by the General Court to frame a civil code, which ranks next to the constitution itself in the jurisprudence of the state, which to this day bears his name, and stands, in form or substance, in the present general laws.

In determining the place and value of this code in history, it is always to be borne in

mind that the constitution vested the supreme power of the State, executive, legislative, and judicial, in the General Court, "wch . . . shall have power to administer justice according to the lawes here established, and for want thereof according to the rule of the word of God"; and again, and from the first, the colonists in New England claimed the benefit and protection of the common law. In some particulars, however, the English common law was not suited to their condition and circumstances, and those particulars they omitted in its recognition and adoption. They also claimed the benefit of such statutes and orders as had been enacted in modification of this body of rules.

At a session of the General Court, held April 9, 1646, when Edward Hopkins was Governor and John Haynes was Deputy Governor, it was ordered that

"Mr. Ludlowe is requested to take some paynes in drawing forth a body of Lawes for the government of this Comonwelth, and p'sent the same to the next Generall Court; and if he can provide a man for his occasions while he is employed in the said searvice, he shall be paid at the country chardge."

Connecticut had already adopted a criminal

code taken from that of Massachusetts, with some additions, both founded on the Mosaic law and buttressed by scriptural texts. It was probably due to this fact that some writers have ventured to charge that the Code of 1650 itself was also a compilation from Massachusetts sources—a charge which the simplest comparison instantly disproves.

The Massachusetts Body of Liberties, written by Nathaniel Ward, was adopted December 10, 1641, after amendment and revision by all the lawyers of the General Court. Its provisions were chiefly taken from Magna Charta and the English common law. It contained ninety-eight sections: the Connecticut code had but seventy-seven, and several of the Connecticut laws were enacted *prior* to the establishment of the Massachusetts code. To be more specific, fourteen of the articles of Ludlow's code were taken from the Body of Liberties, some with slight verbal changes, and others with important additions; but sixty-three of the articles were entirely new and distinct, and related to other matters, civil and criminal. Connecticut was provided with an adequate code of civil procedure, the machinery of civil government, without modification in its primary

code from Ludlow's hand. Massachusetts was not so fortunately provided, since within seven years from the adoption of the Body of Liberties the General Court found occasion to issue the *Book of General Laws and Liberties*, after a study of the English authorities: *Coke upon Littleton*, *Coke upon Magna Charta*, *Coke's Reports*, *Books of Entries*, *New Terms of the Law*, and Dalton's *Justice of the Peace*.

The capital laws both of Massachusetts and Connecticut were remarkable in that, while under the existing English law more than forty crimes and offences were punishable by death, under these more humane and enlightened laws death waited at the door of these colonial courts only on conviction of worshipping false gods, witchcraft, blasphemy, murder, sodomy, crimes against nature, adultery, rape, kidnapping, perjury, and treason; Connecticut having an additional provision for the punishment of rebellious children. And the records of the criminal trials of the time, with the testimony elicited by the magistrates, using the methods of a French judge of instruction, demonstrate the need of the extreme penalty for the commission of the gravest crimes.

In the brief record of Ludlow's engagement

by the General Court was the inditing of a great matter. Mark the scope of his commission! not a compilation or revision of existing laws,—many of them written by his own hand, at the General Court's request,—but the “drawing forth of a body of lawes for the goverment of this Comonwelth,” the creation of a code grounded in precedent and authority, and fitted to the necessities of the new civilization.

Ludlow began at once this important work. With his other exacting public duties, four years were occupied in its completion; and the code was finally adopted in May, 1650, and the only recognition of his great service is certified by a minute in the colonial records, by Colonial Secretary John Cullick, February 5, 1651: “This court grants and orders that the secretary shall be allowed and paid the sum of six pounds, being in p<sup>t</sup> of payment for his great paines in drawing out and transcribing the country orders, concluded and established in May last” (1650). No record exists of Ludlow's compensation for his great service, other than an entry that “it is the mynd of the court that he be considered for his paynes.”



What the code was, what knowledge of the law it displayed, what acquaintance with precedents and forms, with what foresight and skill it provided for the enforcement of order, the protection of person and property, the administration of justice in the courts, may be truly known only by a critical study of its articles, and of its influence and authority in the legislative and judicial history of the State for two hundred and sixty years.

It covers over fifty printed pages of the first volume of the Connecticut colonial records. It was alphabetically arranged under seventy-seven titles; thirty-seven being laws passed at previous sessions of the court, mostly drawn by Ludlow, since as deputy governor, moderator, or magistrate, he was present in court when twenty-one of these laws were passed, and he was specially requested to prepare the important orders relating to inquests, intestate estates, magistrates' power to inflict corporal punishment, records of land titles, and other fundamental matters, notably the institution of jury trials.

Ludlow's classification was in general retained in all revisions of the statutes until 1854, when fifty-eight of his seventy-seven ti-

tles, somewhat modified, were still used; and most of the articles of his code, in form or substance, are to-day embodied in the general legislation of the State,—a wonderful demonstration of the inherent vitality, the intrinsic merit of the laws themselves, and of the genius, ability, and learning of the man who was desired to draw them forth.

But there are other witnesses than the letter or spirit of the law and its force in current legislation, to the character and value of this code of our forefathers and the reputation of its author. This is their cumulative evidence:

“In the year 1646, Roger Ludlow, one of the most distinguished men of his age, and entirely conversant with the proceedings of the General Court, was requested to compile a body of laws for the colony.”—*Committee on Revision Conn. Laws.*

“A systematic and comprehensive body of laws, prefaced by a Bill of Rights, in which are contained several of the leading provisions of Magna Charta.”—*Committee on Revision Conn. Laws.*

“Amongst these documents—legislative—we shall notice as especially characteristic the code of laws promulgated by the little State of Connecticut in 1650 . . . a body of political laws . . . which, though written two hundred years ago, is still ahead of the liberties of our age.”—DE TOCQUEVILLE: *Democracy in America.*

“Roger Ludlow was one of the most able of the founders, and partly because he was an educated lawyer (perhaps the only one) has left an individual mark on legislation more easily traced than that of the others. The Code of 1650 was prepared by him and bears his name. He was evidently specially relied on by the General Court in matters pertaining to law, and on one occasion was by special order made moderator of the Particular Court, notwithstanding the governor or deputy governor might be present.”—HAMERSLEY : *Connecticut : Origin of Constitution and Laws*.

“He appears to have been distinguished for his abilities and especially his knowledge of the law, and the rights of mankind. He rendered most essential services to this commonwealth ; was a principal in forming its original constitution, and the compiler of its first code. For jurisprudence he appears to have been second to none who came into New England at that time.”—TRUMBULL : *History of Connecticut*.

“This comprehensive code of laws,—and, for the seventeenth century, wonderfully liberal and advanced in freedom and wisdom,—was the work of Roger Ludlow, the ablest lawyer of the colony and probably of New England.”—ROBINSON, H. C. : *Hist. Address*, 1889.

“In the spring of 1650, the first code of laws, since known as Ludlow’s code, was completed and entered upon the public records. This is the foundation of the written laws of Connecticut.”—DAY’S *Manuscript*.

“He was the first lawyer who came into Connecticut, and one of the greatest who has ever lived in the State.

. . . He compiled a code of laws which many years afterwards was destined to rank him among the leading statesmen of the age in which he lived."—SCHENCK : *History of Fairfield*.

"This (the code) is the foundation of the written laws of Connecticut."—STILES : *History of Ancient Windsor*.

"England's universities had thoroughly trained him in the manual of letters ; he was especially well drilled in jurisprudence, and brought to the chaotic colonies clearly defined notions of legislative polity. . . . It was moreover by universal consent called 'Ludlow's Code,' and by it the author gained the well-merited distinction of 'The Father of Connecticut Jurisprudence.'" —BEERS : "Roger Ludlow," *Mag. American History*.

"The Connecticut code was compiled by Ludlow, who had one of the best legal minds in New England."—ELLIOTT : *History of New England*.

## CHAPTER XII.

Framer of the Constitution and the Code—Other Duties and Honors  
—Magistrate—Commissioner—Deputy Governor—At Windsor  
—Absence from Court—At Pequannocke—Purchase from the  
Indians—Fairfield—Reprimand—Plea of Justification—Court's  
Sanction—Advantage of the Purchase.

ENOUGH of Ludlow's honors has been told to place him in the foremost rank of the sturdy Englishmen who builded the colonial state. Men of less ability, less renown, are commemorated in bronze or marble likeness of tradition or resemblance, or in portraiture or tablet, and all pay them reverence for what they did or said in those days ; but nowhere save in ancient archives or records, or in casual historic mention, is duly honored the name of the man who wrote the Constitution and the Code of 1650, which in spirit or in letter have survived the shock of wars and the political and social revolutions of two hundred and sixty years. All this did Roger Ludlow do, and yet one chapter of his service, of his devotion to the land

of his adoption, resulting in misunderstanding, criticism, and voluntary exile, and the loss to Connecticut of one of the ablest men who ever lived in it, remains to be herein written.

Set aside for a closer insight of Ludlow's career all that has been shown to his credit thus far, in England, Massachusetts, and Connecticut, and still the old records are eloquent of other duties done, of honors won, which mark him as one of the great makers of history among the Puritan forefathers.

As chief of the Massachusetts commission to govern Connecticut for a year, he organized that tribunal, presided at all its meetings, and framed its orders. On the formation of the government, in May, 1637, he was chosen a magistrate, and again in 1638. At the first general meeting of the freemen under the constitution of 1639, he was elected Deputy Governor, being the first to hold that office. In his absence in 1640, he was elected a magistrate,—an office to which he was chosen every year until 1654, except in 1642 and 1648, when he again served as Deputy Governor. In 1648, 1651, and 1653 he was one of the commissioners to the United Colonies, dealing with the most

important affairs of state, notably with the claims of Massachusetts to the territory of Springfield, of the Dutch to territory in Connecticut, and the vital questions of the controversies in the impending war between the Dutch and English. And he was one of the representatives of Connecticut in the negotiations that led to the confederation of the colonies in 1643, and stood for the sovereignty of the people in framing the articles of that compact,—a reservation which saved its principle when the compact was broken up by the nullification of Massachusetts.

In addition to the burdens laid upon him in these executive and judicial offices, he served the state as commissioner to treat with Massachusetts as to the Pequot war, and the occupation of the Pequot lands; to buy corn and beaver of the Indians; to treat with contestants as to the Fenwick patent; to gather up remarkable passages of God's providence in the history of the plantations, for record; as delegate to the ecclesiastical synod at Boston, with Hooker and Stone, and possibly on the very occasion when, to refresh the spirits of the disputants, the Massachusetts General Court passed this vote: "The court think it

convenient that order be given to the auditor to send 12 gallons of sack and six gallons of white wine as a small testimony of the court's respect to the reverend assembly of elders at Cambridge"; to settle land disputes with Plymouth men at Windsor; to answer with Governor Hopkins a letter from the Dutch Governor, Stuyvesant; to survey and set bounds to plantations; to hold courts at Unquowa; to serve as commissioner of military affairs in the border towns; to confer with Governor Eaton and others about Indian war; to arrange to supply soldiers with provisions in Indian campaign; to promote the interests of Uncas against Sequassen's claims to sachemship; to take lists of persons and estates at Norwalk; to furnish powder and supplies to Captain Mason at Saybrook; to control military affairs at Stratford; to treat with New Haven authorities as to ships asked from Cromwell to aid in war against the Dutch; to treat with the Long Island Indians and friendly English there, and prepare frontier towns for the Dutch war, following the disclosure to him of the conspiracy of Miantonomo to destroy the whites. Surely abundant additional proofs are these of Ludlow's pre-eminence, and of the confidence



reposed in him in important affairs and in emergencies.

Ludlow made his home at Windsor, where he bought land of the Indians, from 1635 to 1639. At a session of the General Court, held September 10, 1639, when he was Deputy Governor, he was fined five shillings for being absent. Some writers have suggested as a reason for his absence his chagrin and disappointment at the election of his former political opponent in Massachusetts — John Haynes — as Governor in that year; but he made no protest then, "grew into no passion," and until the Governor's death in 1654, and his own return to Ireland, they served together as trusted counsellors and friends in the great matters of state.

Nor was his absence due to any ambition for lordship, for personal control or ownership of great landed estates, after the English fashion, as his own moderate acquisitions clearly demonstrate. Nor was it due, as some have surmised, to a desire to gain an independent field for the display of his talents or ambitions. On the contrary, his removal from Windsor to Fairfield in 1639, where he made his home and served the state for fifteen years, was the

result of his sagacity and wisdom in securing favorable and ample territory for the increasing number of colonists, and that, too, before it was appropriated by the Dutch or the rival colony of New Haven; and it is simply another fact to the credit of this far-seeing man in promoting the development of the three original towns.

Early in 1639 the General Court granted a commission to Ludlow to begin a plantation at Pequannocke. He was on that errand, with a few others from Windsor, afterwards joined by immigrants from Watertown and Concord, when the fine was imposed. He bought a large tract of land from the Pequannocke sachems,—afterwards greatly enlarged by other purchases to the westward,—and recalling the attractive region beyond (Uncoa), which he had personally seen on the second Pequot expedition, he also “set down” there, having purchased the territory embraced in the present town of Fairfield, to which he gave its name.

On his return to Hartford, at a General Court session, October 10, 1639, he was taken to task for exceeding his commission. He made a tactful and effectual explanation and

plea in justification of his act. It is thus reported :

“ Att his coming downe to Quinnipiocke the hand of the Lord was uppon him in taking away some of his cattle, wch prevented him in some of his purposes there for selling some of them : afterwards, att his coming to Pequannocke, he found cause to alter his former thoughts of wintering his cattle there, and understanding that the beginnings of a Plantacon beyond that was not caryed on according to the agreement made with those who were interested in ordering the same, and that by some things wch appeared to him, his apprehensions were that some others intended to take up the sayd place who had not acquainted this Court with their purposes therein, wch might be preiudiciall to this Comonwelth, and knowing himselfe to be one of those to whom the disposel of that Plantacon was comitted, he adventured to drive his Cattle thither, make provision for them there, and to sette out himselfe and some others house lotts to build on there, and submitts himselfe to the Court to judge whether he hath transgressed the Comission or not.”

A reprimand was given to Ludlow chiefly because he had not notified the General Court of his intention in advance ; and Governor Haynes and Thomas Wells were appointed to visit the country (Fairfield), investigate what Ludlow had done, and report to the court. This was done ; and they reported, that, “ upon due consideration of the same, they had,

thought fit, upon Mr. Ludlow's assenting to the terms propounded by them, to confirm the same." And thus a fair domain was won for the Connecticut colony by peaceful measures, and held against the intrigues of the Dutch and the rival claims of New Haven, — a position of great strategic advantage and strength to the parent government in the later controversies of territorial ownership and occupation. Here again was he the man who held the post of honor, as he did in the palisado at Windsor in the stress of the Pequot war in 1637.

## CHAPTER XIII.

Dutch Claims in Connecticut—Confederation—Johnston's Opinion—Contention 1635-1664—Indian Allies—Diplomacy—Commissioners' Charges—Stuyvesant's Denial—Refusal of Massachusetts—Nullification—Historical Incidents—Rhode Island—Underhill—Petition to Cromwell—Ships and Troops—Peace Declaration.

THE Dutch claimed the territory of Connecticut through the primal rights of discovery, of conquest or purchase, and occupation,—rights that underlie all civilization, by the strong hand;—and this fact is to be considered, howsoever one may criticise their blunt diplomacy, their disingenuousness, or their stubbornness in the support of their demands. They were adventurers for trade, and were ready to negotiate or manœuvre, bluster, or threaten, or fight for its advantages by the same methods which brought them profit along the Hudson and Mohawk, including the hazardous exchange of muskets and ammunition and rum with the Indians for beaver and other furs,

with shrewd and cunning appeals on occasion to their passions of cupidity and revenge.

What, in brief, are the facts as to the warfare along the western border in those crucial days? What were its causes, its incidents, its results? Who stood fast against Dutch intrigue and Indian craftiness, in the interests of the colonists, and finally sacrificed himself that his heritage—their heritage—should endure?

The confederation of the colonies in 1643,—Connecticut, Massachusetts (with a greater population than the other colonies together), New Haven, and Plymouth,—was in chief due to a fear of the Dutch and the Indians: although Johnston, in his *History of Connecticut*, attributes it to a single cause:

“The leading reason for the formation of the union was probably the inability of the home government, during the confusion of the civil war, to afford protection to the New Englanders against the claims of the Dutch colony of New Netherlands.”

That the motives of the league were composite is shown in the preamble to its articles:

“ . . . whereas we live encompassed with people of severall Nations and strange languages which hereafter may prove injurious to us and our posterity ”;

“and forasmuch as the Natives have formerly committed sundry insolencies and outrages upon severall Plantations of the English, and have of late combined themselves against us.”

From the first clash between the English and Dutch on the Connecticut, in 1635, to the surrender of New Amsterdam to the English fleet in 1664, through the directorships of Minuit, van Twiler, Kieft, and Stuyvesant, there ran the red current of bitter racial controversy, chicanery, plot and counterplot, conspiracy, and savage warfare. Across some imaginary territorial line the tides of battle came and went, bearing with them the ghastly wreckage of arson, massacre, and pillage.

That the Dutch were ready at all times, and especially when the controversy ripened to the actual declaration of war, to call to their aid the tribes of savages, admits of no question. Witness the instructions of the United Provinces to their director-general, Stuyvesant, in the war year that saw the naval battles of Blake and Von Tromp, in 1652 :

“If it happen, which we will not yet suppose, that those New Englanders did incline to take a part in these broils, and injure our good inhabitants, then we should advise your honor

to engage the Indians in your cause, who, we are informed, are not partial to the English."

Every reason, then, had the men of the united colonies, and especially the settlers in the frontier towns, where the first onset would be made, to believe the statement of Uncas to Governor Haynes, that the Dutch governor was inciting the Narragansetts to cut off the English; confirmed, as it was, by the disclosures of other friendly sachems at Stratford, and to Ludlow in person at Fairfield in March, 1653.

The commissioners of the united colonies met at Boston in April, 1653, to consider the situation. Then began the long series of inquiries, of commissions, of diplomatic denials and defiances which read in the light of truth make one of the interesting chapters in our colonial history.

The New Englanders made up their minds to provide for emergencies, and negotiate afterwards; and so they voted that five hundred men should take the field "if God called the colonies to make war against the Dutch." They had no more doubt about their relations to Providence and the righteousness of their cause than Ethan Allen had in the Bennington



meeting-house, when the minister in a prayer of great detail was giving thanks to the Almighty for the capture of Ticonderoga, and Allen stood up in the congregation and exclaimed, "Please mention to the Lord about my being there"; and so were they doubly armed to take up the controversies with the doughty Dutch director-general.

At first the commissioners charged the Indian sachems with the conspiracy; they denied it; and the commissioners drew up a long manifesto of grievances and complaints, and appointed delegates to visit Manhattan and demand satisfaction. Stuyvesant received the visitors courteously, denied any share in the plot to kill the English, and the charges in detail, solemnly avowing: "This only we know, that what your worships lay unto our charge are false reports and forged information." The delegates refused all terms of compromise, charged Stuyvesant with evasion and duplicity, and left "the enemy's country" in the night. Arbitration, even with Englishmen chosen to represent the Dutch interests, came to naught; the delegates divided on their report; a conference proved futile, as did the director-general's visit at Hartford; and the

colonists made ready for that providential call to arms.

From the outset Massachusetts had demurred to the action of the colonial commissioners, through her representatives in that tribunal, on the ground that at present she could see no occasion for war; that the Dutch had made a suitable explanation, and she then refused to join in the campaign, and so wrote across the articles of confederation her decree of nullification. And from that day until the dissolution of the confederation in 1684, each colony developed on independent lines.

The salient features in the history of that time are these: In July, 1653, New Haven and Connecticut, pursuant to the majority vote of the colonial commissioners, called on Massachusetts for her quota of the five hundred men, or to allow the recruiting of from two to four hundred men from that colony. Governor Endicott declined to honor the call. New Haven and Connecticut then sent agents to England to petition Cromwell to send over some troops and ships to aid them in fighting the Dutch, and to command Massachusetts to assist in the war.

Rhode Island took a hand in the imbroglio, and fitted out a marauding expedition under the command of the soldier-adventurer, John Underhill, whom Lowell describes as "a kind of cross between Dugald Dalgetty and Ancient Pistol," who took the defenceless House of Good Hope at Hartford, nailed his flamboyant proclamation on its doors, and "Sold it first to Ralph Earle of Rhode Island for £20, and again to Gibbons and Lord," giving a deed to both parties; and the General Court passed a formal act of sequestration of this Dutch possession, in April, 1654.

The colonial committee found public sentiment in England bitter against the Dutch in New Netherland; and Cromwell, on their petition, sent four ships, the *Raven*, the *Church*, the *Argentine*, and the *Hope*, with a few troops, to aid the colonists in reducing Manhattan and all other Dutch places; and June 1, 1654, the fleet was at anchor at Boston, to be equipped for the expedition; and June 23d it was victualled for about 900 foot and one troop of horse,—300 recruiting from Massachusetts, under permission from the General Court to enlist volunteers, 200 from Connecticut, 133 from New Haven, and 200 from

the fleet,—and was on the eve of sailing, when the news of the peace between England and Holland was received. The English on Long Island were ready to join in the onset; the English at Manhattan were active in their efforts to aid their brethern; and the Dutch themselves were alienated by the oppression and misrule of Stuyvesant and his predecessors, and would not fight under his orders. Naturally there was a day of thanksgiving at New Amsterdam when the welcome tidings of peace came.

## CHAPTER XIV.

Virginia Massacre—Delaware Colonists—Mohawks—French in Canada—Six Nations—French Embassy to New England—Treachery and Intrigue—Rivalry of Indian Sachems—Threats, Plots, and Murders—Apprehension in Border Towns—Alarm of the Colonists—War Preparations—Rebellion at Stamford—Connecticut and New Haven Refuse Assistance—Fairfield Raises Troops—Ludlow Chosen Commander—Reasons for his Action—Notice to Authorities—Their Disapproval.

THE suspicions of the English, and their belief in the Dutch and Indian conspiracy, were intensified by the memories of the massacre of the Virginia colonists by old Opecancanough and his warriors a few years before—memories kept alive by the stories of the “divers godly disposed persons” who then removed into New England and settled in the Connecticut border towns. And the Dutch had arrested and imprisoned and driven out the colonists who had attempted to settle at the Delaware, to the great chagrin and loss of the capitalists who had adventured there.

To the westward between the lakes and the

Hudson, and to the border where the dreaded Mohawks made their forays and exacted tribute from the tribes they had subdued, there was a field of conflict,—war to-day and truce to-morrow, as red men and white struggled for the mastery.

To the northward, men of another race and religion had battled for gain and conquest,—devotees of mistaken modes of colonization. Champlain, Montmagny, Maisonneuve, governors, commandants, and superiors, had spent weary years of warfare with the native tribes. They were led and inspired by the courage and heroism of the Jesuits, who carried the message of the Master alike to Huron and Iroquois. Le Jeune, Brebeuf, Chabanel, Jonges, Noue, Bressani, were not dismayed by torture or starvation, by the horrors of cannibalism, or the maniac deviltries of the Ononhara or Dream Feast. Men at arms, men of affairs, men and women reared in the atmosphere of courts and bred to their luxuries, had laid down their lives to hold the vast domain of the north for the honor of France. Strange tales of the devotion and sacrifice of these Jesuit fathers, of the sufferings of gentle men and women, of stratagem, of ambuscade, of

horrid rites, of massacre, were told in the colonial homes of New England, all intensifying the unrest and alarm that waited on every rumor from the lips of voyageur, scout, trapper, or Indian runner.

The warriors of the Six Nations had driven the French into the towns and outposts, and spread desolation and terror in the valley of the St. Lawrence and along the lakes; and in such dire distress were these "pioneers of France in the new world," that they sent the accomplished Druillets and Godfroy to pray aid of the heretic New Englanders in their behalf, and that of the Christianized Indians of Acadia, against the Mohawks and warriors of the Six Nations. Their plea was adroit and ingenious; and the colonial commissioners, not to be outdone in diplomatic courtesy, assured the Frenchmen of their readiness to do all offices of righteousness, peace, and good neighborhood; but they must await a more favorable time for negotiations. It was an occasion for diplomacy, and few state papers of that day are of greater diplomatic interest than the final answer of the commissioners to the representatives from Governor D'Aillebout of Canada, who had labored for years, by correspondence

and otherwise, to bring about an alliance with New England. But Frenchman and Puritan could not make treaties in the presence of the general sentiment expressed in the Massachusetts statute: "No Jesuit or ecclesiastical person ordained by the authority of the Pope shall henceforth come within our jurisdiction."

Dutch hatred, Indian treachery, French intrigue, kindled their bale-fires around the colonial horizon, and through their darkling clouds were seen grim portents of savage warfare to appall the stoutest hearts in the hamlets and solitary homes in the wilderness; and these fears were intensified in the tribal and racial rivalries and hostilities of the natives within the borders,—not so much of the tribes conquered by the Mohawks, and of whom Ludlow and his friends purchased lands at Fairfield and vicinity, as primarily in the ambition of Miantonomo and Uncas, the claims to sovereignty of Narragansett and Mohegan, the machinations of Ninigret, and the enmity of the Pequot remnant toward all their conquerors. To Miantonomo's death, in 1643, the war councils were aflame; and only the strong hand of English power held the balance of safety, amid conspiracies and alliances



that were a constant menace to the peace of all New England.

After the death of the Narragansett chief, the serious Indian troubles were centred in the towns in the southwestern part of the State, settled by Ludlow and the pioneers who followed him from Windsor, Concord, and other places.

What were the special causes of apprehension, apart from the general ones already noted? They are written here and there in the annals of conspiracies and atrocities, and clearly tell why all the fighting men flew to arms, and, impatient of the slow deliberation of their distant inland neighbors, chose a commander of their own in the presence of greatest perils.

In the summer and fall of 1643, the Indians killed over forty of the Dutch; murdered Anne Hutchinson, of Antinomian fame, and her family, eighteen persons in all, at Stratford; and drove in the settlers west of Stamford. Strict watch was kept in every plantation, and every man capable of bearing arms in western Connecticut was obliged, on the Lord's Day, to go armed to the places of worship.

In the spring of 1644, the Indians killed a man between Fairfield and Stamford. They promised to deliver the murderer to Ludlow at Fairfield, but let him go in sight of the town. The English, in retaliation, seized and put in prison some sachems and other natives. The Indians arose *en masse* and terrified Fairfield and Stamford; and the prisoners were released. A month later an Indian assaulted, with a hammer, a woman in the town street of Stamford, making her insane, and robbed the house. Natives of the home tribes went on the war-path, fired guns around the plantations, and neglected their corn-planting. No travel by land was safe; close watch and strong guard were kept night and day. And the border towns appealed to Connecticut and New Haven for aid in their distress.

Trade with the Indians in guns and swords and any warlike instruments was forbidden, under a fine of the value of the article sold. Sales to the French and Dutch were also prohibited.

In 1646, a plot to kill several of the principal people of Hartford was unmasked. Sequassen hired Watolisbrough to assassinate Hopkins, Haynes, and Whiting. He confessed

the scheme at Hartford. The commissioners demanded the surrender of Sequassen and other conspirators. The Indians defied them, primed and cocked their pieces, and derided the officers and troops sent to arrest the leaders. They burned the tar and turpentine stored at Windsor, and set all the country about Milford on fire, to destroy the town.

The Narragansetts and Nehanticks violated their agreement with the whites, and besought the Mohawks to attack them.

Ninigret (their chief) said he would pile the English cattle in heaps, and kill every Englishman who should step out at his door, and these tribes were more insolent in western Connecticut than ever, in 1648. They invited the Pocomtucks and Mohawks to join them in a war against Uncas and the Mohegans. United they could put eight hundred warriors in the field; and they threatened to march through the colony on the war-path.

In the same year, John Whitmore, representative of Stamford in the General Court, was slain while driving his cattle home from the fields. Connecticut and New Haven at last declared war against the Indians at Stamford and vicinity, on account of the Whitmore

murder and other outrages. They became alarmed, and ceased their depredations for a time.

In 1653, after this series of outbreaks, the colonists had no doubt of the Dutch and Indian conspiracy against them, and prepared for war. A general anxiety prevailed, and special precautions were taken against an attack, which they had learned from friendly Indians was fixed for the day of public elections, when the freemen would be from home. Ploughing, sowing, and planting were delayed, and the settlers were exhausted by constant watching, and put to great outlays for the public safety.

The fear was greatest in the frontier towns. Men were sent to Stamford to aid in its defence. A frigate patrolled the Sound, to defend the coast against the Dutch and incursions from Long Island by Ninigret and his warriors. The settlers at Stamford rebelled against the slow prosecution of the war, set up for the home government against the colonies, raised troops, and asked permission to recruit in other towns. Goodyear and Newman, from New Haven, tried to quiet them by reading an order of a committee of Parliament directing

them to obey the colonial authorities. They insisted that New Haven should pay a part of their expenses in fortifications, and provide a guard there during the winter. Some arrests were made for attempting an insurrection.

Fairfield took more deliberate action, and resolved to prosecute the war despite the provoking delays of the authorities at Connecticut and New Haven. The people there came near to revolution in their alarm and impatience in raising volunteers and arming for an expedition against the Dutch and defence against the Indians. They appointed Roger Ludlow commander-in-chief of their forces. In what he conceived to be his duty, and in his displeasure that the colonies did not follow the declaration of their own commissioners in the presence of the impending dangers, he accepted this command without the official sanction or commission of the authorities, but honestly and honorably to meet a responsibility imposed by his neighbors and friends, and not without hope and assurance that, as he was once charged with the supervision of military affairs on the border by the General Court, the end would justify the means.

He had good reasons for his confidence.

He was then a colonial commissioner. He had been charged with the oversight of military affairs at Fairfield and vicinity. He was at Boston, at an extra commissioners' session, March 17 and April 19, 1653, and urged that men and arms should be sent to protect Fairfield and the adjacent towns on the Sound. He and Captain John Cullick, as commissioners, were "invested with full power to agitate such occasions as concern the United colonies, for Connecticut, according to their former commission." Ludlow was also of the special committee to persuade Massachusetts to join in the expedition against the Dutch. When she refused, the commissioners sent warning to each colony to prepare for war. He also acted with Governor Haynes, as a committee, in arranging for the campaign with Governor Eaton of New Haven.

The matter culminated thus: Thomas Baxter, a freebooter from Rhode Island, with a commission from that colony, "under the Commonwealth of England," seized a Dutch vessel, and brought her into Black Rock harbor, at Fairfield. The Dutch sent to Connecticut two men-of-war, with one hundred men, which lay in the roadstead, off Fairfield.

There was great excitement and alarm. At a town meeting it was voted to raise troops for defence and to make war on the Dutch. Then Ludlow was made commander and accepted, as the town might be attacked at any moment, and began to drill his men and prepare for the attack. He immediately wrote Governor Eaton of his appointment and action; and his letter was read to the General Court at New Haven, November 22, 1653. But the magistrates at New Haven, hitherto foremost in their advocacy of war against the Dutch, and who had charged Massachusetts with a violation of the Confederation articles because of its refusal to join in this war, made only this answer to Ludlow's notice and the appeal of their neighbors in their distress. The Governor (Eaton) acquainted the Court with a letter he had received

“from M<sup>r</sup> Ludlow, informing of a meeting they have had at Fairfield at w<sup>ch</sup> they have concluded to goe against the Duch, and have chosen him for their chiefe, and he hath accepted it; all w<sup>ch</sup> writings were read to the court, after w<sup>ch</sup> the court considered whether they were called at this time to send forth men against the Duch, and after much debate and consultation . . . the court by vote declared that . . . they see not themselves called to vote for a present warr.”

In the presence of the declaration of war by the council of which he had been a member ; of the order of Parliament that the Dutch should be treated as the declared enemies of the Commonwealth of England ; of the general belief that the subjugation of the New Netherlands was the only way to lasting safety and peace, who will now question that Roger Ludlow undertook the performance of a plain duty, and was justified in his action ? New Haven disliked Ludlow, and the criticism and indifference expressed in its treatment of his letter were due to his taking up and settlement of Fairfield—which geographically belonged to that colony—as one of the towns of its rival, Connecticut ; to his liberal views in civil and religious matters, as set forth in the Fundamental Orders and the Code ; to its fear that he might found another colony for democratic government in the adjacent territory when wrested from the Dutch ; and to the vigorous protests he had made from time to time, and his home thrusts at men and their measures, in the hot debates between the leaders and makers of public opinion in the rival colonies.



## CHAPTER XV.

Witchcraft—Ancestors' Convictions—English Law—Persecution—King James—More—Fuller—Granvil—Massachusetts—Mather—Witchcraft Laws—Capital Crime—Goodman—Knapp—Bassett—Accusation of Ludlow—Staples *v.* Ludlow—The Charges—The Defence—Fines—Subsequent Indictment of Plaintiff's Wife for Familiarity with Satan.

THE forefathers believed in witchcraft,—entering into compacts with devils. They set it down in their criminal codes as a capital offence. They found abundant authority in the English law and precedents. The statutes of Henry VIII. and James I. made Conjurations, Enchantment, and Witchcraft punishable by death; and they were not repealed until 1736. Many fell victims to the merciless execution of these laws, the persecution being kept aflame by such theological insanities as King James's *Doctrine of Devils*, More's *Antidote to Atheism*, Fuller's *Holy and Profane State*, and Granvil's *Sadducismus Triumphatus*. Fortunately the mania did not take firm hold

in the colonies until about 1650, and then only in sporadic cases, when "the Devil starteth himself up in the pulpit, like a meikle black man, and calling the row [roll], every one answered, 'Here.'" Massachusetts had a unique record of convictions and punishments. Men, women, and children of tender years were done to death on Gallows Hill, terrified into confession, but protesting their innocence with unshaken constancy. Cotton Mather fed the fires with his malevolent delusions, writing in his ministerial inebriety of "prodigious processions of devils," in the time of Governor Phips. It was he who calmly looked on when Burroughs was hung, salved the conscience he had by composing such twaddle as the "Late Memorable Providences Relating to Witchcrafts and Possessions," and still with unwitting irony confessing to himself, in his diary, that he "had temptations to atheism, and to the abandonment of all religion as a mere delusion."

The General Court of Connecticut established this capital law:

"2. If any man or woman be a witch (that is, hath or consulteth with a familiar spirit), they shall be put to death. Ex. 22:18, Lev. 20:27, Deut. 18:10, 11."

And New Haven colony, in fewer words, but on the same Scriptural authority, provided in its capital laws :

“ If any person be a witch, he or she shall be put to death according to Ex. 22 : 18, Lev. 20 : 27, Deut. 18 : 10, 11.”

While the witchcraft fever raged in Massachusetts, the colonists of New Haven and Connecticut were vigilant to suppress any outbreak in their own jurisdiction, by heroic remedies ; and the disease seemed quite as virulent on the magisterial bench as in the humble homes of the few victims of its unrighteous judgments.

Mistress Goodman was first suspected and accused at New Haven, in August, 1653 ; was cautioned that “ the court wisheth her to looke to her carriage hereafter . . . keepe her place, and medle with her owne business ” ; was later imprisoned, and finally released on giving security for her good behavior. Accusations and indictments appear in the records for many years, with water ordeals, and various tests of innocence, with death sentences in one or two cases, afterward commuted ; but the executions of Goodwife Knapp at Fairfield, and Goodwife Bassett at Stratford, gave pause

to magistrates in imposing the death penalty, and last of all reached the clergy, and tempered or silenced their denunciations of this crime, born of delusion and nurtured by bigotry run rampant.

Enough has been written here of this story of dishonor to demonstrate that an accusation of witchcraft was a serious matter. It was an easy thing to make, and unfortunately easy to prove upon evidence, hearsay and circumstantial, which no court would hear for a moment under the modern rules of the admission of evidence. As it was easy to bring such a grave accusation through malice, carelessness, or love of gossip, so was it much easier to charge one with having made such an accusation out of spite or revenge or other form of deviltry, and make him liable in a civil suit for slander, for oral defamation of character. If the person accused was responsible in estate for the damages to be adjudged, the imagination and zeal and triumph of the accuser seem to have been materially enhanced. There was little to discourage chronic litigants, since aside from "just damages to the party wronged"—usually adjudged nominal,—the maximum fine for a vexatious suit was forty shillings.

In the last days of his nineteen years of service to Connecticut, Ludlow was made a victim of one of these accusations, in a suit entitled

“Thomas Staples of Fairfield, plant.,  
Mr. Rogger Ludlow, late of Fairfield, defendt,”

tried before the Court at New Haven, May 29 and October 18, 1654.

The report of this trial, with the testimony of witnesses in some of its questionable details, covers fourteen pages of vol. i. of the New Haven colonial records.

There were three charges in the complaint :

1. *That Ludlow had said that Staples's wife had laid herself under new suspicion of being a witch.*
2. *That Knapp's wife (hanged for witchcraft) had told him that Goodwife Staples was a witch.*
3. *That Ludlow had slandered her by saying she made a trade of lying.*

In his absence, Ludlow's attorney and friend, Ensign Bryan, made a defence, in which the testimony of seventeen witnesses was given, showing to the satisfaction of any impartial tribunal of present-day experience, that what

Ludlow said of Goodwife Staples being a witch was true upon her own statements to her friends and neighbors, and that he said he thought them not true ; but the learned judges found against him, and ordered him to pay to Staples, "by way of fine for reparation of his wiuë's name," on the first charge, "ten pounds, and for his trouble and charge in following the suit, five pounds more."

The second charge was dropped ; but in the following October the Court fined Ludlow—whose attorney made no defence—ten pounds more, to be paid to Staples "toward ye repairing his wiuë's name," on Ludlow's alleged charge that she "had gone on in a tract of lying." As we find a Mrs. Staples under indictment at Fairfield, several years later, for "familiarity with Satan," Thomas's damages would not seem to have gone far toward "repairing his wife's name." Whether she escaped, after being bound hand and foot and put into the water, by floating, as Mercy Disborough and Elizabeth Clawson did, who were also indicted for like diabolism, is not told in the history of the time. There can be no doubt that this suit for slander against Ludlow for some hasty and indiscreet words, spoken to some friends

“in a confidential way,” as one of them testified, and on a burning topic of the hour, falling in the midst of bitter disappointment and anxieties about public affairs, counted with other things in his final resolution to leave the country.

## CHAPTER XVI.

Ludlow's Departure from Connecticut—Its Causes—Day's Statement—Arrival in England—Return to Ireland—Settlement at Dublin—Services There—Cromwell's Preference—Magistrate—Commissioner of Forfeited Estates—His Associates—Pepys—Corbett—Cooke—Reading—Allen—Carterett—Order of Lord Deputy and Council—Master in Chancery—Last Record of Service, December 16, 1659—Death of his Wife—Resident of St. Michan's Parish in 1664, at Age of 74—Estimate of his Qualities and Achievements—Brinley's Inscription—The State—Its Capitol—Its Honor to Hooker, Davenport, Trumbull, Sherman—Its Duty to Ludlow—Its Opportunity.

AT threescore and four years of age, and after twenty-four years of distinguished service in New England, Ludlow carried out his declaration to the Massachusetts General Court, of twenty-two years before, to return into England. The causes of his removal are not all known or understood, and never may be; but it is certain that they culminated in the refusal, both of the Connecticut and the New Haven colony, to come to his support in the presence of a war which threatened the destruction of



Fairfield, and the criticism which followed his election by its people as a commander of the militia there, an office which he thought it was his right and duty to assume in the emergency, under authority in military matters previously granted him by the General Court of Connecticut, and a post of honor which patriotism and loyalty to his friends and townsmen compelled him to accept. Little did he dream, as he drilled his handful of men on the village green that they might prosecute what all believed to be a righteous war in defence of their families and homes, that he was inviting the condemnation of his brethren and long-time associates in Court and Council, and charges of insurrection at their hands.

Day, in his note on Ludlow, assigns these reasons for his departure :

“ The reasons which led to this sudden but voluntary exile are as follows : In that year the colony was alarmed by fears of Dutch and Indian hostilities ; and Stamford and Fairfield, then frontier towns, were thrown into an agony of apprehension. Entreating the New Haven colony for troops and assistance, they were refused ; and losing all patience, they resolved to raise troops independently of the colony, and to defend their own borders, and carry on the war themselves. Roger Ludlow was appointed commander-in-chief. In all this there seems

to have been no thought of sedition, but only the impulsive action of a town, who, foreseeing their own imminent peril, and hopeless of receiving the needed aid from a source whence they had a right to expect it, resolved to arm in their own defence. The government of Connecticut, however, did not view it in that light, but treating it as a matter of insubordination, if not of open revolt, proceeded to deal with the principal movers in the affair as 'fomenters of insurrection.'

"Ludlow, although not openly dealt with, had been foremost among those who were for prosecuting the war against the Dutch. He had also seriously compromised himself by his hasty and unadvised acceptance of the command of the Fairfield forces, without legal appointment. He felt that he had, without any moral guilt, incurred the displeasure of the colony, and that unless he should make some humiliating concessions, his behavior would not be likely to escape public censure. It was quite evident that his popularity had reached the meridian. Proud and sensitive to a high degree, he brooded over the change that had taken place in his prospects, as well for promotion as for usefulness, . . . and at last came to the conclusion, but not without many keen regrets, to leave the colony where he held so conspicuous a place for nineteen years."

Count all these factors in his leave-taking as verities, and add to them those that tradition or inference may warrant: that he felt the scandal from the Staples suit; that he had lost in some degree his prestige at home, in public

and private estimation ; that he longed to resume relations with his kindred and friends in England, to return to the environment of his earlier life, to win new honors in the field of his former activities ; and there still remains one more potent than all others, and hitherto not made known, to wit, that Ludlow probably returned at the instance of the Lord Protector, Oliver Cromwell.

The early writers of colonial history, lacking the desire or opportunity for research, had this only to say of Ludlow after his departure from Connecticut,— that he went to either Virginia or England, and that his later fate was unknown. For more than two centuries the shadows hid him and his after-life from all men save the historical student and antiquary in search of truths of more interest to them, until within a few years other investigators— notably, Waters, in his *Genealogical Gleanings in England* ; Stiles, in his *History of Ancient Windsor* ; Miss Schenck, in her *History of Fairfield*, with its genealogy of Ludlow's family by the late Joseph Lemuel Chester, D.C.L., LL.D. ; and Beers, in his "Roger Ludlow," *Magazine of American History*, vol. viii.— have winnowed the truth from rumors

and traditions and brought to light additional information of value.

Something of Ludlow's lineage, of his domestic relationships, of his education, his early interest in colonial enterprises, his coming hither, his services in New England, his departure and its causes, and his return to Old England, were made known; but many of the statements as to his later career in his native land are based on inference and conjecture, and the actual record of his service was not discovered or set forth in these investigations.

Ludlow left Fairfield in April or May, 1654, and after confiscation and sale of the vessel he first chartered (for previous illicit trading by its captain, at Virginia and with the Dutch) by the New Haven authorities, he sailed in another vessel, with his family, to Virginia to visit his brother, a man of position and large estate in that colony, as has been noted. From Virginia he sailed for Ireland, and crossing over to England he returned to Ireland in September, 1654, as certified in the memoirs of his kinsman, Sir Edmund Ludlow,—then Lieutenant-General of the forces in Ireland under Cromwell—who says: “Arrived at

Holyhead. Here we met my cousin Roger Ludlow, who was then newly landed from Ireland, but finding us ready to set sail he returned thither with us."

It is now possible, from authoritative sources,—the printed and manuscript records and reports at London, Dublin, and elsewhere,—to set forth with certainty and for the first time the facts in Ludlow's life after his departure from the colonies. They add new honor to his name, and justify all that has been written of his ability and fitness, not only for his service in New England, but among his peers in the complex problems that taxed the learned jurists of Old England.

One of the most delicate and perplexing of governmental questions that arose in the reign of the Lord Protector was the determination of both law and fact in the valuation, allotment, and settlement of the forfeited estates in Ireland, after its conquest and depopulation by transportation to other countries. Only men of recognized ability and honor could serve in such a relation. Who could be trusted, in those perilous times, to do exact justice, to act wisely and honestly, when so many momentous issues, legal and equitable, called for

adjudication? Cromwell nominated these distinguished men for that high service, and they were commissioned by the Lord Deputy and Council at Dublin, November 3, 1654: Richard Pepys, Esq., Chief Justice of the Upper Bench in Ireland, and one of the Council; Miles Corbett, Esq., one of the Council; John Cooke, Esq.; John Reading, Esq.; William Allen, Esq.; *Roger Ludlow, Esq.*; and Philip Carterett, Esq. The commission was a broad one, and clothed with ample powers to receive, hear, and determine all claims in and to forfeited lands in Ireland, whether of the Irish rebels; under the Acts of Parliament in the seventeenth year of King Charles's reign; or belonging to the Crown in 1630; or "out of any of the lands, tenements or hereditaments lately belonging to any archbishop, bishop, dean, dean and chapter or other officers belonging to that Hierarchy in Ireland."

There is a significant entry in the records of "Commissions and Instructions by the Lord Deputy and Council," in Dublin, which defines Ludlow's appointment to this commission, and marks the special honor conferred upon him within three months after his return from

America, and after an absence of twenty-four years.

By the Lord Deputy and Council,

"It is ordered that Roger Ludlowe, Esq., be appointed Comm<sup>r</sup> for the administration of justice at Dublin, and likewise for the adjudication of claymes, and to that end it is ordered that he be inserted in the Respective Commission for that Purpose; and it is further ordered that he be added to the Commission for the administration of justice in the County of Corke, and inserted in the Commission for the Peace of the said County, to the end he may act in the administration of justice there until he shall be otherwise disposed of as there may be occasion for the most advantage of the Commonwealth.

"DUBLIN, the 18th of December, 1654.

"T. H. Cl. Council."

Ludlow was chosen by Cromwell himself to serve on this important commission, his American reputation being ample justification for the appointment; and it is the judgment of students and critics of the written and unwritten history of that time, that he was invited over for that very purpose.

And this judgment rests upon substantial evidence. Cromwell knew well and held in honor the Ludlow family; they were men of his stamp, of whom in all his life he had greatest

need, whether at Worcester or Westminster. Its sons had laid down their lives in the Puritan cause. Henry Ludlow had rendered brilliant service in the Long Parliament, "made up of the very flower of the English gentry and the educated laity" (Morley). Sir Edmund Ludlow, Member of Parliament, one of the King's judges, stood so fast in Cromwell's esteem that he made him Lieutenant-General of Horse, civil commissioner, and Deputy in Ireland, and trusted him in the most important relations, public and private. No man in England knew better the merits of the Puritan leaders in New England—among whom he counted many acquaintances and friends—than Cromwell, and when need came for the Irish commission he made choice of another member of the Ludlow family, one of the founders of the Puritan state abroad, and made him a member by a special order.

This preferment and appointment were also but incidents of a favorite scheme of the Lord Protector's, the repopulation of Ireland, after the conquest, and confiscation of estates, by men of the Puritan order; and to accomplish this result he made the most strenuous efforts. The conditions in New England favored the



plan. Barren soil, cold climate, small capital, few products for exportation, and the lessened immigration after 1640 made life hard and labor unprofitable, and the unrest and discontent ripened into removals and attempts to remove to other lands.

Take, for illustration, the energetic effort of Lord Say and Sele to get settlers to Old Providence Island, which brought forth Winthrop's protest; the schemes of Humphrey and Vines to withdraw people to the West Indies; the inquiries as to Virginia and the Caribbees; the return of many to the mother country, some men of chief rank, as Winthrop says in his journal, and the remonstrances of the colonial authorities against removals from their jurisdictions.

Cromwell undertook the task of bringing over the New England people to settle in Ireland in a systematic way. He wrote letters to prominent men and sent over emissaries—emigration agents—with their pleas and prospectuses. He negotiated with John Cotton of Boston, William Cobbet of Lynn, William Hooke of New Haven, and Samuel Desborough and William Leete of Guilford, while Scottish captives and Irish children were being sent

to New England and Virginia to be sold as slaves, under his orders.

Ample proof that Cromwell had a general emigration movement in view, and that he held out inducements to prominent men in New England who were to lead it, is shown in an answer to one of his letters, December 31, 1650. Evidence enough is this also of Cromwell's influence, and that his propositions had gone far toward consideration. But the Puritan in Massachusetts and elsewhere in New England in 1650 had had his lesson; he was an apt scholar in Cromwellian history.

These are the conditions of their emigration to Ireland for "enjoying the Lord in his ordinances," which Peter Bulkley of Concord, Thomas Cobbet and Samuel Whiting of Lynn, John Knowles of Watertown, Daniel Dennison of Boston, and John Tuttle of Ipswich set down in their answer to Cromwell's urgent invitation: (1) The same liberty of worship that they had in New England to be established by the State of England; (2) proper outward encouragements in houses and lands by Parliament or the Council of State; (3) land for free schools and colleges; (4) free choice of a military governor from themselves

or of nomination by them of some other person; (5) land in a healthful part of Ireland; (6) assistance "in regard of the meanness and inability of those godly persons who had or might join them to transport themselves"; (7) freedom for some years from public charges; (8) to have no Irish "but such as we shall like of" inhabit among them; (9) convenient time to transport themselves. The conditions were not accepted, for the reason that Cromwell had no authority to do it, and what Parliament might do was problematical. The General Court ended the machinations in Massachusetts, in a letter, October 21, 1651, to the Lord General, "to the end that no private information might occasion him to prejudice the colony by inviting over many of the inhabitants to be transplanted to Ireland."

After the failure to colonize from Massachusetts, special efforts were made in New Haven through Hooke, Desborough, and Leete, which did not cease until October, 1654 (six months after Roger Ludlow left Fairfield), but without notable results in migration to the "convenient lands fit for tillage, and secure and healthful location near the coast towns" [Irish.]

And even then the project of colonization elsewhere was renewed, urgent appeals were made for colonists for Jamaica, by special messengers of Cromwell, notably by Daniel Gookin, once a member of the Massachusetts General Court; and the agitation went on after the New Haven General Court, at the close of a stormy session so late as May, 1656, voted that "though they cannot but acknowledge the great loue, care and tender respect of his highnes the Lord Protector to New England in generall, and to this colonie in pticuler, yet for divers reasons they cannot conclude that God calls them to a present remove theither" [Jamaica.]

There is therefore strong evidence that, with Cromwell's knowledge of New England men, his letters to them, his urgency to win them to his court, Roger Ludlow, at a critical point in his fortunes, was called to an office at Cromwell's behest, in which he found profit and honor and congenial service.

Ludlow sat as a member during the whole course of the first Irish commission, from 1654 to 1658, as shown in the Receiver General's accounts, with a payment entry "in full for his good services, Sept. 22, 1658." When the

commission ceased, the record of Ludlow had been of such high degree that on the creation of a new commission, issued directly by order of the Lord Protector, he was again appointed, with Miles Corbett only from the old commission ; and his other associates were Sir Gerrard Lowther, Sir John Temple, Sir Robert Meredith, James Donellan, John Santry, and Thomas Fowles. In addition to these responsible offices, Ludlow was also made a Master in Chancery in Ireland, a very honorable and lucrative post, and charged with the performance of both judicial and ministerial duties of importance.

The last reference to any public service of this strong man, in any presently known and accessible source, appears December 16, 1659 ; and it is very significant when it is recalled that he was then sixty-nine years old, that the first Protector was dead, that the second Protector had resigned, and that within five months Charles II. was on the throne.

Receiver - General's accounts, 1659 - 1660, page 120 :

"Dec. 16, 1659. To M<sup>r</sup> Jonathan Ludlow by warr<sup>t</sup> dated ye 12<sup>th</sup> of Dec<sup>r</sup>, 1659, the sum of twenty pounds for ye use of Roger Ludlow for his care and pains

taken in several publique services in this nacon, and is in ful satisfacon of all past services done by him for ye Commonwealth."

With these new facts in the closing years of Ludlow's life, after his departure from Connecticut, which patient and exhaustive investigation has disclosed, a complete demonstration is made of his remarkable ability and readiness to deal with the vital questions of government, the great problems of law and equity, of civil and judicial administration, not alone in the storm of debate and decision in the colonial courts and meetings, but in the quiet and grave deliberations and judgments of the tribunals of Old England, with men learned in the law and chosen for their special qualifications for his associates.

All that can now be made known, all that may ever be known of Ludlow, other than what has been herein written from the earlier and newly discovered sources of information, is set forth in the entries and records of Saint Michan's Parish in Dublin. That he and his family became residents there on their arrival from America in 1654, there is no doubt: he is named in the will of his brother George, made in Virginia in 1655, and in which some of

Roger's children were made legatees, as "at present living in Dublin"; and that he was still living there at the age of seventy and four years is clearly proved by an entry in the list of baptisms, marriages, and burials of Saint Michan's Parish church, August 18, 1663 - September 13, 1664. It is this: "1664, June 3. Burial, Mary Ludlow, wife to Roger Ludlow, Esq." Two things are evident from this entry: that Ludlow was then alive, as it was the invariable practice to state that the deceased was either a widow or a widower if such were the case; and that he was then a resident in the parish, with his wife, or it would have been noted that the deceased's husband was not resident there. No further trace of Ludlow can now be found; and while it is believed that he died in Dublin between 1664 and 1668, Saint Michan's records of those years are missing, as are those at Holyhead, where mere tradition holds that he may have at last removed, so the evidence of the date of his death and burial place seems surely lost, and in these matters the present record of him must end with Brinley's words, written a generation ago: "No authority yet seen records his death or points to his grave."

Any study or analysis of a human character which sees only its sunshine, not its shadows, its virtues, not its vices, its excellences, not its errors, must stand charged with a partiality, a prepossession which impairs its interest and value. Facts tell us who Ludlow was, and what he did; and they need no embellishment; but to complete the story of his career, it seems fitting to ask what was said of him in the camp of his critics, as well as in the home of his friends.

What of him thought Winthrop and Dudley, Haynes and Hopkins, Eaton and Goodyear, the men who saw most of him in his career in the two colonies? Winthrop simply wrote in his journal that Ludlow on one occasion "grew into a passion"; Dudley stood with him in the early magisterial *régime* in Massachusetts; Haynes, his successful rival in politics, gave him precedence in the courts; Hopkins censured him for taking up Unquowa, chiefly because he did not ask permission of the Court in advance; Eaton and Goodyear called him a fomenter of insurrection in his vigorous preparations for the defence of Fairfield; possibly some of his associates in the General Court at Hartford



halted at his impulsive action ; and Thomas Staples sued him for slander, for a bit of gossip repeated in confidence to some friends (Davenports) in New Haven. This is what the records disclose of weakness or of error in a public life of twenty-five years. With the circumstances in each instance which have been told from the records, what is the utmost that may be said derogatory to the name and service of Ludlow ?

That he was zealous for his rights, and jealous of his honors ; that he was of imperious temper, and impatient of criticism ; that he was ready—too ready—to assume responsibility ; that he misinterpreted public sentiment through impetuosity ; that he was over-confident, and did not bridle his tongue with discretion.

Grant all these things, and they were merely faults of temperament. What are they worth in the presence of all he actually accomplished for the Commonwealth of Connecticut ? In summing up his qualities, one recalls a strong man in our time much misunderstood, of whose character this analysis is given :

“ There was intellectual power, self-reliance, an iron will, unbending integrity, devoted

patriotism, unusual capacity for work, adaptability to new duties, and an intense enthusiasm for whatever cause he espoused."

Add to these supreme qualities of leadership, the cardinal virtues of honesty and honor in every public or private transaction, charity and good-will toward his friends and neighbors, and the love and affection which crowned his home-life with devotion to his wife and children, and the story of Roger Ludlow, so far as now known to history, is written.

Connecticut builds its home of state, its capitol of massive strength and symmetry, dedicated to law and equity and justice, on the very homesteads of its first settlers. It looks on the very places where great deeds were done and the first history was written: northward, where the pioneers from Dorchester held the open lands in the Windsor palisado; westward, to "Pequannocke and beyond," where the villages in the wilderness through fear and trembling grew to vigorous life; southward, toward the broad haven and the meadows of the Quinnipiac, where Davenport and his goodly company sat down, and on the "long river" of both tragic and blessed memories;

and eastward, on the ancient hills which saw Ludlow, Hooker, Stone, and Rossiter, and all the pioneers, with their wives and children, on their perilous pilgrimage hither.

And near at hand run the broad ways where the settlers made their homes in the three original towns; and there are the historic places where the forefathers went forth to war, where they listened to the preached word, where they held their solemn councils, and where the constitution was adopted; and there, too, is the God's Acre, restored and beautified of late by their children's love, where many of them sleep.

Connecticut in its capitol honors some of these men in spirited likenesses from the sculptor's hand; tells its cherished traditions in traceries and reliefs and symbolisms of vine and oak and classic legend; hangs the portraits of its governors along its walls; embodies its story of 1776 in statues of Hale, Putnam, and Knowlton; folds with reverent hands the tattered battle flags of the Civil War that move all hearts to tears; touches tenderly the guns that echo the victories on land and sea; and invokes through its Commission of Sculpture the aid of highest art further to commemorate

historic deeds. All this has the State done to preserve and perpetuate in part the memories of men who made her foremost in the history of the Republic ; and still it waits duly to honor him who, among the greatest, helped to lay the foundations of the State itself, as told in the records of his time.

Empty niches, with canopies and pedestals complete, there are along the capitol façades, awaiting new forms in real or fancied semblance, and in the portal arches are the shields for inscription to tell the deeds now seemingly forgotten.

What act more befitting, what privilege or duty more instant in its merits, than that the Commonwealth shall set in one of those places of honor a statue, in granite or in marble, of traditional or actual resemblance ; as others are, or of the ideal lawyer of his age, and name it Roger Ludlow ?

Could the chiselled lips of Hooker and Davenport, Trumbull and Sherman, already standing there, be touched with life, they would bid him welcome as peer, companion, friend, "To the state a Counsellor full Deare," and ask that there be written, on the vacant portal shield, these words :

To the  
MEMORY  
of  
ROGER LUDLOW  
Who  
Gave to Connecticut  
a Body of Laws  
and the  
First Written Constitution  
Which under God  
Acknowledged no Power  
Superior to  
the Supreme Power  
of the  
Commonwealth

*(From Brinley's "Reprint Laws of Connecticut, 1673")*

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Acknowledgment is here made to Benjamin Franklin Stevens, Esquire, of London, England, an American of Puritan lineage, son of the founder of the Vermont Historical Society, author of *Facsimiles of Manuscripts in European Archives Relating to America*, so invaluable to all students, readers, and writers of history; whose services always have been generously accorded to American investigators, and through whose good offices the important facts in Ludlow's life after his departure from Connecticut have been made available.

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